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# Citizenship and Intersectionality: German Feminist Debates about Headscarf and Antidiscrimination Laws

## Abstract

*As European nations grapple with when and how to extend inclusive citizenship to their Muslim minorities, the parameters of Muslim women's citizenship have jumped to the forefront of feminist concern. Much of the debate internationally has revolved around veiling, but we argue that this is only one element of how ethnic, religious, and other differences among women are addressed. In this paper, we choose two cases which highlight political choices surrounding intersectionality for German feminists: headscarf laws and antidiscrimination laws. Both laws are inherently intersectional, with significant and differential impact on Muslim women, but German feminists have engaged in these two issues quite differently. The so-called headscarf debate has drawn intense feminist involvement but changes in antidiscrimination law are rarely discussed in feminist media. We attempt to explain this difference by focusing*

*on how solidarity-across-difference is understood: as a strategic alliance around multiple axes of difference or as using the state as an ally to help “other” women address their special needs.*

In 2005, Turkey, the European Union’s Muslim neighbor, officially began accession negotiations for European Union (EU) membership. Muslim immigrants already are present in significant numbers in most European states; in Germany, the nearly two million Turkish-origin residents are 3–4% of the population. Including the Muslim “other” inside the boundaries of Europe has unleashed massive controversy about the parameters of citizenship. These debates often focus on the bodies of women, with the meaning of wearing a veil being a flashpoint for politicians in the popular press, where it is often construed as a symbol of the oppression of women inconsistent with “European values” (see reviews in Koonz 2007; Weber 2004; Vakulenko 2007).

Indeed, the EU has committed itself with increasing specificity to mandating gender equality as a core value (Cichowski 2004). The EU demands that all its member-states implement enforceable anti-discrimination laws, both to ensure gender fairness and to protect racial, ethnic, religious, sexual, and other minority groups, whether indigenous or immigrant. Unlike previous antidiscrimination measures, which focused solely on the workplace, these laws cover discrimination in civil society, such as in housing, credit, and public facilities. As part of the *acquis communautaire*, or shared principles of union, the equality of women and men has been made part of the definition of “Europeanness,” although how equality is defined and how well it has been achieved varies among the EU’s member states (Verloo 2005; Lombardo and Meier 2006).

Regulation of veiling and of discrimination thus forms a double engagement with the politics of modernity, where gender plays an important symbolic role in defining citizenship rights (Berkovich 1999). These dual forms of regulation also provide the practical context in which German and Turkish women confront problems of sexism and patriarchy.<sup>1</sup> For feminists, embracing the cause of “women” requires defining oneself in relation to “Europe” and its announced project of social inclusion. This inclusion is negotiated transnationally, as the boundaries of Europe are re-drawn through accession to membership in the EU. It is also negotiated interpersonally as both indigenous and immigrant women decide what local and global identities they embrace, and how these identities shape their interactions with others. Each of these negotiations draws on and defines the parameters of citizenship, in the sense of common membership in a single political community (Anderson 1983).

In this paper, we consider the extent and nature of German feminist engagement in this larger European boundary-drawing project. What feminists think “feminism” is, who “women” are, what interests women have in common, and what concerns divide women are by no means self-evident. Differences among women are often described by the term “intersectionality,” meaning that gender combines with race and class in multiple forms and leads people to different political conclusions (Collins 1998; Crenshaw 1989). If, as Connell (2002) argues, feminism is about “steering the gender order” in directions that are empowering for women, then it is important to consider just what kinds of politics are thought to decrease women’s subordination in the overall modernizing agenda embraced by the EU.

By its embrace of antidiscrimination policies, the EU has placed enacting such laws on the national agendas of its member states. Regulating discriminatory actions is controversial to varying degrees in the twenty-seven different member states. In France, antidiscrimination legislation became a major policy goal of the Chirac government, while the United Kingdom used the EU mandates as an opportunity to strengthen and modernize existing laws. By December 2004, seventeen of the (then) twenty-five member states had implemented the EU required antidiscrimination legislation, but delay in passing the legislation in Germany, Greece, Austria, Finland, and Luxembourg prompted EU regulators to sue these countries.

State regulations on wearing a headscarf have been extremely controversial throughout Europe. In a number of rulings on headscarf cases, the European Court of Human Rights has allowed that headscarves might legitimately be restricted by EU member states (Vakulenko 2007). In some countries, such as France, headscarves ignited controversy in schools where they were viewed as a violation of the mandate for religious neutrality (laïcism), and the 2004 legal prohibition of wearing religious and political symbols in state schools was not seen as a violation of France’s antidiscrimination legislation. In Belgium, a majority of schools have prohibited the wearing of headscarves (Coene and Longman 2006). However, Norway (incidentally not an EU country) has interpreted headscarf bans as violating its Gender Equality Act (Skjeie 2006). At the level of national policy across Europe, the presence or absence of antidiscrimination legislation does not map onto a particular position on headscarves (Dustin 2006).

Germany is an important case to consider because it is one EU member state where both antidiscrimination legislation and headscarf regulation are seen as relatively problematic. Moreover, the

cultural and political attention paid to Germany's national socialist history (often called *Vergangenheitsbewältigung*) forms an ever present backdrop to present-day social and political discussions about citizenship and the state (Savelsberg and King 2005). The threat of the return of fascism looms large in the German imaginary, though where and how this threat is identified (whether in banning or allowing headscarves, or in discrimination against minorities or in an intrusive state) is debated. Germany also recommends itself for study because it has feminist media where both these sets of laws can be contested visibly. In comparing feminist response to antidiscrimination legislation and headscarf cases in Germany, we attempt to show how race, religion, gender, and the role of the state do (and do not) come together for German feminists.

Although the discursive and institutional path dependence given by German history and European politics is important, it is not determinative: German feminists make consequential choices about the issues they emphasize. Indeed, where and how German feminists have engaged in these two issues has been very different, with the so-called headscarf debate drawing intense feminist involvement, but consequential changes in antidiscrimination law being rarely discussed. Although some German feminists are willing to place themselves on the side of the state to regulate Muslim gender relations, nearly all are skeptical about state action to protect ethnic German and migrant women from discrimination. We employ our analysis of these contrasting issues to extend the theory of intersectionality, highlighting the difference between exclusive and inclusive forms of feminist solidarity, the former being those that focus on addressing only differences among women and the latter being concerned with strategic alliances around multiple axes of difference.

### Framing a Feminist Politics of Inclusion

The incompleteness of the modernist project of democratization in regard to women makes gender central to debates about the headscarf and to the EU embrace of antidiscrimination policies. Is the modernity to be extended to women on the margins of the EU the one that has already been secured in most of its member states, in which women are seen as a different type of citizen, located in the home, and protected in their special domestic status? (Hobson 2003; Fraser 1992). Or is the modernist project to be itself extended to the core institutions of state and society, redefining women as citizens who are just as public, free, and individual as men are? (Gerhard 2001; O'Connor, Orloff, and Shaver 1999; Zerilli 2005). Or is the modernist project of the EU itself one to be challenged from a

postmodern perspective that throws issues of both categorical protection and individual freedom into question? (Scott 2005, Butler 1990).

This is difficult theoretical terrain for all feminists, made more difficult still by the growing awareness that women are not homogeneous, including in their relations to men, the state, and national citizenship. Issues of immigration in Europe bring these intersectional concerns to the fore as the insider/outsider, dominant/subordinate hierarchies of nation, race, and religion crisscross and disrupt the public/private politics of gender as hierarchical relations. This is especially the case for claims and contestations about the place of Muslim “others” in Europe.

The view that the Muslim headscarf is oppressive to women has a long history in the West, and seeing Muslim men as oppressors of Muslim women offered colonizers a way to justify their power in the name of “liberating” Muslim women (Ahmed 1992). Opposition to Muslim women’s veiling was long couched in the feminist language of “sisterly protectiveness,” as Antoinette Burton (1992, 148) called it in India. In postwar Germany, particularly in the 1970s and 1980s, a headscarf symbolized an uneducated, “backward” immigrant. Today its associations have shifted from economic marginality to cultural difference (Weber 2004, 38, see also Inowlocki and Lutz 2000). The headscarf, increasingly adopted by younger women, is readily read as an expression of “otherness.” Battles over the construction of otherness have literally become focused on women’s bodies which “symbolize and threaten transgressions of social boundaries” (Ong and Peletz 1995, 6, see also Yuval Davis 1997; McClintock 1995).

Where and when Muslim women should be allowed to wear headscarves, particularly when representing the state in some capacity, touched off heated debates among feminists in Germany in the 1980s and 1990s, as in other European countries. The French 2004 law, directed at Muslim women’s headscarves, that forbade all religious and political symbols in primary and secondary schools deeply divided French feminists, with the respected author Christine Delphy opposing the ban, while Fadela Amara’s group *Ni Putes Ni Soumises* (‘neither whores nor submissive’) approving it (Spensky 2006). In Germany, the EU’s largest and arguably most powerful member state, and home to the largest number of Turkish Muslim migrants, the contentious discussion of veiling came to be called the *Kopftuchstreit* (headscarf debate) and raged in all segments of German society and in all forms of media from 1995 to the present (Weber 2004; Szymanski 2003; Berghahn and Rostock 2006). This debate, and its shadow, the lack of debate about antidiscrimination policies, highlight feminists’ definitions of solidarity.

As Mohanty (1998) has noted, a focus on universal gender oppression can mean that race and class must become invisible in order for gender to become visible (255). However, a focus on women's particularity can lead also to a dangerous politics of difference, in which class and culture become unbridgeable divides. Tripp (2000) for example, points out how African women's mobilizations deliberately embrace a cross-tribe, cross-ethnic, and even cross-national solidarity among women as a counter to the disastrous politics of patronage, corruption, and warfare that they have experienced. Similarly, Bos (2006) argues that in the former Yugoslavia, attention to rape as genocide could as easily fall into either an extreme nationalism that framed one ethnic group as particularly victimized or an equally extreme claim that such rapes were "only" about gender and had nothing to do with the nationalist passions that raged through the region. Finding a nuanced position that can specify both women's particular social location and their universal human rights thus remains a challenge (Boyle 2002; Ferree and Tripp 2006).

This challenge is directly confronted in the German headscarf debates. As we show below, German feminists who oppose Muslim women's legal right to wear headscarves focus on specificity: Muslim women's relationships with Muslim men and their need for protection from Islamic patriarchy, while those who favor women's legal right to wear headscarves emphasize gender commonalities and argue that all women should be allowed by the state to make their own decisions. However, we argue that both anti- and pro-regulation feminists are concerned with Muslim women as oppressed *women* rather than as members of Muslim or Turkish communities which also face oppression. But we also claim that this all-too-familiar debate captures only half the story, since both sides of the argument define intersectionality as relevant only in gender terms, as differences or similarities in *patriarchal* oppression.

Here, we try to reveal the other half of the challenge of intersectionality, namely, how feminists confront issues where they believe that ethnicity, race, or class is more determining for women than gender. The issue that we choose to represent this type of political choice for feminists is the antidiscrimination law (ADG) that was presented to the German parliament in 2004 by a Social Democratic-Green Party coalition government to meet the EU mandate for equality of treatment to be guaranteed by law in all its member states. Disavowed even by a few government ministers in this coalition, and unpopular in polls, the antidiscrimination law (ADG) did not pass before the government fell for other reasons. The succeeding Grand Coalition, an alliance of the conservative

Christian Democrats (CDU) and the Social Democrats (SPD) led by Angela Merkel (CDU) as prime minister, reintroduced and passed a much weaker version of the law in 2006.

The ADG is an expression of what we call “inclusive intersectionality,” crossing boundaries to cover not only gender but ethnicity, race, sexuality, age, and religion. Both ethnic and class barriers have significant impacts on Muslim women, and work against their full inclusion in the German nation-state. But to campaign for this law, indigenous feminists needed to define “women’s interests” as also intersecting those of their wider ethnic and religious communities and to form a strategic alliance that did not privilege “Germanness.” We argue that the absence of such engagement, no less than the presence of a contentious debate over veiling, reveals the parameters of intersectionality for German feminists. Relative to Muslim women and men, German feminists claimed full citizenship and expected to use the state effectively to support their politics of confronting common gender oppression. Relative to German men and political institutions that legitimate gender discrimination, German feminists did not advocate a strategic alliance with other marginalized groups as a means of restructuring relations of overall privilege. In the following analysis, we show how and why this was the case.

### *German Feminism in its Specific Context*

All national feminisms have a specific character based on the frames and institutions available to them as well as a shared set of concerns. Antidiscrimination enjoys a privileged position within liberalism as an expression of state respect for individual rights, and unlike American feminism, German feminism does not have a strong tradition of liberalism (Ferree 2008). German national identity is paradoxical, involving both notions of homogenous German culture and ethnicity and a commitment to atone for where such ideas of national essences led under the Nazi regime (Savelsberg and King 2005). Even more than other European states, Germany lacks an “assimilationist, unifying ideal that would make diversity itself a source of national identity and unity” (Klopp 2002, 41; see also Stowasser 2002, 53), but overcoming the intolerance of the Nazi era is also a central aspect of identity, central to Germany’s definition of itself as a democratic state and a worthy member of the community of nations. As a result, policies regulating difference, especially religious difference, have great significance.

The German state, by contrast, leaves most matters of workplace regulation to the social partners, that is, labor unions and employer associations. This form of corporatist government creates obstacles

for feminists, limiting their voice in matters of workplace difficulties and employment opportunities (Young 1999; Zippel 2006). Ensuring equality of opportunity also fits poorly in a corporatist framework, which is less about individual competition than collective bargaining (Koch 2003). Germany's institutionalization of strong parties, corporatist government, and positive law combine to bring feminist advocacy into the state in the form of women's ministries, but also to limit their actual power (Lang 2000; Ferree 2008).

German feminists face the same challenge all feminist movements do, namely, what Drude Dahlerup calls the articulation of the feminist "visions of autonomy and of equality" (2004, 65). As Ferree (1987) showed, German feminists lean in the direction of autonomy rather than equality, arguing that gender difference shapes women's identity as "wife" and "mother" and their freedom is connected to their relationships with husbands and children, a position Offen (2002) calls "relational feminism." German state policies favor the "strong breadwinner" family in which both women and men have incentives to abide by a conventional gender division of labor (Vogt and Zwingel 2003, 462). Many German feminists have treated equality as a suspect concept (Moeller 1993; Allen 2005), but even a strong advocate of equality politics, Ute Gerhard, argues that the concept of equality "assumes that men and women are different and that they will not become identical as a result of equal treatment" (2001, 8). Many feminists not only accept women's place in the private sphere, but celebrate women's experiences there.

Gerhard argues that the standard for equality should not be to what extent women are treated like men, but a third, impartial point of view based on a "superordinate standard, a degree of freedom possible for all people (men and women)" (2001, 10). But this standard is also inflected by ethnic and national positions that are not equal. In particular, Turkish nationals and Muslims face different treatment both by the state and by the communities in which they reside. Viewing women in relational terms primarily situates them in their families and thus in their ethnic/national communities, and makes gender politics focus on the problems women face as women *within* those communities.

By contrast, defining the problems women face as part of these communities in German society as a strategic feminist issue presents a different vision of intersectionality. Both ethnic and class barriers have significant impacts on Muslim women, and work against their full inclusion in the German nation-state, but for these to be framed as a matter of gender solidarity, Muslim women would need to be seen as representing their communities as well as moving in and out of them as individuals, not simply in terms of their "relationality"

to Muslim men. The issues of discrimination facing Muslim women situate them in relation to “German” women and men directly, and highlight majority women’s complicity in religious/ethnic discrimination. In the following sections, we consider the institutional issues of intersectionality raised by both issues, then discuss the methods and findings of our analysis of German feminist discourse about them.

*Muslims, Discrimination, and the ADG*

Turkish immigrants arrived in Germany not as refugees or asylum seekers but as laborers. Beginning in the mid-1950s, Germany recruited foreign laborers as “guest workers,” and although in 1973 the German economy declined and recruitment of foreign workers stopped, their wives and children continued to arrive. By the early 1990s, almost two million Turkish immigrants lived in Germany. Their socioeconomic status is still precarious. There is barely any Turkish middle class (Helicke 2002, 181) and the quality of life, employment, education, and other opportunities for Turkish immigrants are well below that for ethnic Germans. “Turkish families in metropolitan areas still live predominantly in inner-city ghettos, often in slum dwellings” (Stowasser 2002, 58). For Turkish women, employment is an especially critical problem; the ability of young women educated in Germany to find suitable employment is extremely limited (Raethzel 1999, Euwals et al. 2007).

There is little question that discrimination exists. For example, in resisting the ADG, large property management companies argued that “they choose their renters carefully and personally—to see if they are suitable neighbors” (Herrmann 2005).<sup>2</sup> Only pressure from the EU has moved the German state to develop significant antidiscrimination laws.<sup>3</sup> In 1980, the German parliament reluctantly passed a law forbidding workplace discrimination against women, literally called the “European Community Conformity Law.” This law did not prohibit discrimination on any grounds other than gender, and the enforcement mechanisms of the gender discrimination provision were, at best, weak (Zippel 2006). A draft law to bring Germany into the mandated conformity with the now-stronger EU provisions was first presented in 2001 by then Justice Minister Herta Däubler-Gmelin (SPD) but was withdrawn after much criticism.<sup>4</sup> An amended Antidiskriminierungsgesetz (ADG) then came up for debate in December 2004. Presented by the SPD/Green coalition, the ADG would have offered legal protection on the basis of race, ethnic origin, sex, religion or world view, physical disability, age, and sexual identity.

The bill was comparable to laws easily passed in other EU states, but was extremely controversial in Germany. In practical terms, the proposed legislation meant that landlords could not refuse to rent to potential tenants because they were Muslim or homosexual. “Newspaper ads saying things such as ‘no Jews or disabled people’ will be banned,” Volker Beck, the general secretary of the Greens’ parliamentary group, said, going on to note that, “It will no longer be possible for health insurers to refuse cover to homosexuals on the grounds that they belong to a group at high risk of HIV” (Casagrande 2004). In a nearly unprecedented move, some members of the SPD/Green coalition government—such as Minister of the Interior Otto Schily, Economic Minister Wolfgang Clement, and Finance Minister Hans Eichel—spoke out against their own party’s bill.<sup>5</sup> Despite being only a late and modest step toward equal rights, the bill was also criticized widely for being a “bureaucratic monster,” decreasing private autonomy and hurting the economy (Ferree and Zippel 2005). On July 8, 2005, the *Bundesrat* (Upper House), controlled by the opposition conservative Union parties (CDU/CSU), killed the bill, making Germany one of only a few EU member states to fail to pass such a law, most having done so before the end of 2004.<sup>6</sup>

The weak law that was finally passed in 2006, with the support of the CDU/CSU and Social Democrats in their Grand Coalition, eased the burden on employers for preventing discrimination, placed the burden of proof on those alleging discrimination and reduced the time in which claims could be made from six to two months. Although the original, defeated bill would have protected both ethnically German and Muslim minority women from civic as well as job discrimination, and was a matter of considerable public debate, passing it never became an important issue for German feminists. In light of the intersectionality in this approach, its relative obscurity demands some explanation.

### *Muslim Women and the “Headscarf Debate”*

The regulation of headscarves, however, did become extremely important for feminists. Concern about Muslim women’s headscarves is a familiar issue for both German and Turkish politics. Turkey, an officially secular country, adopted regulations limiting the extent to which women can cover their heads in the early twentieth century as part of its own modernization efforts (Erturk 2006). Germany began to face the headscarf issue as early as 1989, but the “headscarf debate” exploded in the media in 1998. A Muslim woman of Afghani heritage who was a German citizen, Fereshta Ludin, refused to remove her headscarf to take a job as a teacher in

a public elementary school. The state of Baden-Württemberg decided that “wearing a headscarf is not a religious duty for Muslim women and that its contested nature within Islam makes it a political symbol that the state should not endorse” (Ewing 2000, 43). Ludin filed complaints in three administrative courts and finally had her case heard at the Federal Constitutional Court in 2003.<sup>7</sup> Contemporaneously, an analogous case in a different state, involving a teacher who converted to Islam in 1990, was decided in the teacher’s favor by a lower court.<sup>8</sup>

The German Constitutional Court concluded that Ludin had been denied religious freedom and that there were insufficient legal grounds to refuse her request for placement as a teacher.<sup>9</sup> The court held that the meaning of the headscarf could be ascertained only on an individual basis and that for Ludin it was not linked to Islamic fundamentalism. But the court also suggested that teachers could be denied the right to wear headscarves in the future if states passed laws disallowing them. Seven German states have since passed such laws, while drafts are pending in four others (Berghahn and Rostock 2006).

The battles over the headscarf take place in the context of Germany’s distinctive history. On the one hand, German women’s lifestyle is “seen to embody Western democracy and liberal values” and gender equality is believed to be an achievement of civilization aided by contemporary democratic German institutions (Erel 2003, 157). Banning the headscarf as a threat to democratic values fits in the framework by which specific “anti-democratic” forms of expression, such as Holocaust denial or Nazi regalia, can be restricted as threatening the constitution. On the other hand, this construction of German women’s emancipation rests on its “othering” Turkish women. A woman who covers her face and hair with a headscarf is symbolically profoundly different—as oppressed as the German woman is emancipated. In Germany, such “racialization” of religion as a cultural difference threatening to German values also causes concern.<sup>10</sup>

Using intersectionality to analyze both discussion of antidiscrimination laws and headscarf regulations reveals German feminists’ historically specific definitions of women, women’s interests, gender politics, and solidarity across differences. By comparing these feminist discourses on these two issues, we explore how gender becomes privileged as an axis of oppression in women’s lives rather than as an element in a “matrix of domination” in which women also carry responsibility (Collins 1998). Debates about emphasizing the role of women as perpetrators or victims in the Nazi dictatorship, which have roiled German feminist historiography (Hagemann and Quataert 2007), find contemporary resonance here.

## Research Design

We see “German feminism” as a constellation of individuals and groups that differ from one another in a number of critical ways. The definition of feminism as “the goal of challenging and changing women’s subordination to men” (Ferree and Mueller 2004, 577) leads us to a variety of feminist groups, journals, and magazines, since there is no over-arching national-level organization or central voice (despite the mass media’s efforts to consecrate Alice Schwarzer and *Emma*, the magazine she publishes, in this role). To capture a sense of the debate and focus of concern, we turn to the numerous feminist journals and magazines, some addressing an academic audience and focusing on theory (*Feministische Studien*, *femina politica*, and *beiträge zur feministischen theorie und praxis*), others seeking a popular audience (*Emma*) or oriented to policy-minded women’s organizations (*Zweiwochendienst*). In addition to these feminist print media, we looked at feminist websites and interviews with self-described feminists in the largest German newspapers. We used Lexis-Nexus searches to find the keywords feminist, feminism, discrimination, ADG/Antidiscrimination law, and *Kopftuch* (headscarf) in mainstream media in the period 1998–2005, and we supplemented this with more recent articles that were particularly prominent.

For the feminist media it was not possible to do a keyword search, as few journals are available online for this entire period. We relied on a more labor-intensive search of the tables of contents of these journals for titles or abstracts that referred to antidiscrimination legislation, headscarf/veiling, or Muslim, Turkish, or migrant women. While some discussion of these issues may have taken place in the context of other central concerns and would have been missed, we believe that all articles in which these issues figured prominently were identified. We selected 50 articles for in-depth thematic analysis, trying to represent the broadest range of positions possible (exception-seeking sampling). We also used Google searches for prominent German feminists to identify webpages either associated with them or citing them, and conducted in-person interviews with Sabine Berghahn and Sabine Hark, two “pro-scarf” feminists, and on-line interviews with Halina Bendowski and Helke Sander, two “anti-scarf” feminists.

Of the articles examined for in-depth analysis, a great variety of actors were prominent including politicians, business women, academics, social service sector employees, and legal analysts. Anyone who self-identified as feminist (either directly or through publishing in feminist journals) or who was said to be feminist in other media

was counted as feminist in our sample. There is no particular view, position, or frame that can be attributed to a particular type of actor, though academics may figure more prominently in the pro-scarf position. In general, a variety of pro- and antiscafr frames (diagnosis, prognosis, etc.) might be argued by any number of different actors. We bring in Muslim women speakers when they argue about women's rights, even when they are not identified (by themselves or others) as feminist.

Our analysis of the articles moves first from consideration of the coverage the antidiscrimination bill received and the nature of the positions taken by feminists about it to then engage the more extensive and richer debate about headscarves. We begin with the thin and policy-driven debate about discrimination law in order to use it as a contrast to highlight the meanings invested in arguments for and against headscarf laws.

## Results

### *Feminist Engagement with the ADG*

Overall, it is clear that the issue of an antidiscrimination law did not draw the attention of feminists. Only one short article in favor of the bill before it was killed appeared in feminist academic journals. In *femina politica* the benefits of an ADG law for women in particular are explained and its passage is urged (Högl 2004, 105). This article appeared in 2004, before the SPD-Greens had put forward their proposal, so the author could not deal with the specifics of that bill. Another article in the same issue examined the latest immigration law, slated to go into effect in January 2005, but did not touch on the ADG and only briefly mentioned female migrant employment (Schneider 2004, 92). The struggle over an ADG, for which the EU had been pressing since 2001, certainly offered an opportunity to German feminists to express a strong position on antidiscrimination as a normative principle. The final version of the law, passed in 2006, drew attention in 2007 from the German Women Lawyers Association (DJB) which appealed it to the European Court of Justice as insufficient compliance with the EU mandate. The position of the DJB, a moderately feminist group, is shared by other feminist legal analysts (see Zippel 2006). But while this appeal is still pending, it has still not become the focus of broader feminist concern.

Only the policy-oriented *Zweiwochendienst* offered significant coverage of the ADG. Some articles about the need for a law appeared before 2004, and short articles appeared nearly every month between

the introduction of the bill in December 2004 and its defeat in August 2005. Women in the trade union movement came out strongly in favor of this initial proposal (Hans-Böckler Stiftung 2005). Women politicians were often quoted in support of the bill, such as the Frauenpolitische Sprecherin der Grünen Bundestagsfraktion (Spokesperson for Women's Politics for the Green Party) Irmingard Schewe-Gerigk, who claimed "this widely applicable protection will especially benefit women, who are the victims of the majority of cases of discrimination" ("*Antidiskriminierungsgesetz: Schadenersatz...*" 2004, 2). *Zweiwochendienst* presented the ADG as "debatable" by also quoting women politicians who did not favor the law, such as CSU politician Hannelore Roedel, who opined that the law "is a bureaucratic monster and will destroy the employment sector" ("*Antidiskriminierungsgesetz: Union...*" 2005).

But for the most part, antidiscrimination received little discursive support from civil society—feminist or otherwise. *Emma* printed just one article about the bill in which the author, Sibylle Raasch, argued that it would benefit racial minorities, not women, and that campaigning for passage of the ADG should not be a concern of feminists.<sup>11</sup> The view that the law was irrelevant for women was mentioned in interviews by both Berghahn and Hark as reasons why feminists were not engaged in pressing for adoption of the ADG in 2005. An interview in the *taz* with Reza Rassouli of the Berlin Antidiscrimination Office about the ADG deals exclusively with discrimination against migrants in employment and housing, without mentioning any benefits for women (Reineck 2005). While it would have ensured a greater level of freedom and protection for Muslim women as well as men, the law was not something the media presented or feminists saw as being "about gender." As Mohanty (1998) suggested, in the absence of an inclusive notion of intersectionality, the invisibility of race or class would have been needed to make gender visible.

Very few articles in the mainstream media were found to address how the ADG might affect women, and they did so without considering Muslim women. One article brought in the charged question of special treatment for mothers and pregnant women in German law, describing how a woman's boss discriminated against her when she became pregnant and how the ADG might prevent such discrimination.<sup>12</sup> Although it is difficult to extract underlying themes from short articles that largely present just pro and con positions, it is notable that the authors present the law as being about ethnicity/nationality rather than gender or sexuality.

In sum, the feminist journals we examined did not draw minority group women (or lesbians) into discussion of how a civil

antidiscrimination law would protect their rights to housing choice or credit opportunities. Thus a strategic alliance in which feminists are also deeply concerned in “other” issues of social inclusion is not evident. The framing of the law as being about something other than gender, understood as women’s rights as women, is given as a reason for majority women to disengage from it. The exception is found in the most policy-oriented journal, where the framing of the ADG is as a practical policy issue rather than as a theoretically interesting challenge to feminist ideas of citizenship, the division between public/private, or concern for autonomy over equality. This limited and conceptually thin discussion of the ADG makes it a mere shadow of the intense discussion of whether or not Muslim women should be prohibited from wearing a headscarf.

### *The Headscarf Debate*

This debate ignited passion on both sides, with supporters and opponents both claiming to represent the one correct feminist position. As with the ADG discussions, the voices engaging in this debate are largely (though not entirely) those of ethnically German women. Although they would not be directly affected by the regulation at all, they define it as a gender issue that matters to them. Presenting it as a matter of deep feminist concern, feminists advanced multiple theoretical reasons for their engagement.

Some of the articles in feminist journals are self-reflective about their position on the headscarf as a symbol of their own feminist identity, though not about their identity as Germans. For example, in an “anti-scarf” article, Heilinger (2004) argues that there is only one acceptable interpretation: “The feminist position sees the headscarf as a symbol of women’s subordination and the inequality between men and women and it is the role of feminism to act against such practices in every society and religion” (3). By contrast, the “pro-scarf” Gaby Strassburger frames the issue as one in which German culture can be trusted to gradually “modernize” immigrants (2003). She argues that the discourse of forced marriage (*Zwangsheirat*) serves to pose Turkish ethnicity as irreconcilable with modern German culture and, like other “pro-scarf” feminists, she questions whether this is really the case (cf. Berghahn and Mushaben articles in *femina politica*, 2004).

In feminist journals, Turkish-German women also speak to this issue, unlike the ADG. In an article in *beiträge zur feministischen theorie und praxis*, Berrin Oezlem Otyakmaz (1999) challenges the stark opposition of Turkish and German culture in feminist discourses. She reflects on how frames for Turkish and German culture become substitutes for arguments over women’s emancipation and

oppression and explicitly labels such characterizations of culture “racist” because they reduce people to being representatives of a static “culture” (80). Arguing that migrant women should be asked about their needs, she includes interviews with several Turkish-German women in her article.

In the mainstream media, two Turkish German women, Seyran Ates and Necla Kelek, have become highly visible for their passionate support of headscarf bans. They question whether the headscarf is a religious requirement within Islam and provide an insider argument for the claim that it is directly aimed at limiting and controlling women’s sexuality (Orde and Schwab 2003; Reimann 2006). Both of these antiscarf advocates invoke German history to point to the dangers of tolerating discrimination, not in order to argue for antidiscrimination laws, but rather to present a headscarf ban as a means of preventing fascism. In this sense, even though they are ethnically Turkish, both Seyran Ates and Necla Kelek argue in specifically German terms. Ates notes that Germany has an “afflicted (belastete) history,” in which symbols have potentially dangerous effects (General 2004). Kelek elides the difference between state and civil society, claiming that the wearing of headscarves should be seen as comparable to Nazis forcing Jews to wear yellow stars (Reimann 2006). Both invoke the resonant anxiety about racialized exclusion in Germany, but not to advocate for the entire Muslim community or to frame discrimination as an issue Muslim women experience in relation to German society as a whole.

But their argument that citizenship, race, and religion are historically heavy issues for Germans is also evident on the other side of the debate. Using similar language, a supporter of women’s right to wear headscarves, Elisa Kalpheck, claims that the headscarf debate reminds her of the forced assimilation of the Jews in the 1900s (“Frauen wehren sich gegen . . .” 2003). Discrimination appears in the context of identity and culture, not economics or law. Most typically, freedom of religion or of conscience is invoked as a purely individual matter, where modern German democracy is only implicitly contrasted with past authoritarian suppression of “difference.” Both pro- and antiscarf feminists argue that their positions offer Turkish women the respect for their rights and the protection of the state that all women are due. In this sense, both positions adopt the transnational script of women’s rights as universal human rights (Berkovich 1999). Their differences emerge sharply when their view of the state is considered. In the following two sections, we analyze each side of the debate in how they situate themselves, Muslim women, and the state.

### *The Antiscarf Position*

These feminists argue that the state should deny Muslim women the right to wear headscarves because headscarves symbolize Islamic patriarchy, which the state must repudiate. To them, Islamic patriarchy differs from German patriarchy by denying women autonomy and agency. Wearing a headscarf is discussed as like other forms of social coercion, but only those to which Muslim women are distinctively subordinated, most often framing “forced marriage” (*Zwangsheirat*) and veiling as virtually identical problems. In either case, women are prisoners of their oppressive culture and German feminists have an obligation to free them.

One of the most outspoken opponents of allowing women the legal right to wear headscarves is Alice Schwarzer, publisher of the popular but controversial feminist magazine *Emma*. Although Schwarzer’s placement as *the* spokesperson for German feminism in the mass media is frustrating for many German feminists, her view of the headscarf is characteristic of the “anti-scarf” position. In an interview in the mass-circulation news magazine, *Der Spiegel*, Schwarzer exclaims, “a women, who stumbles about beneath a mountain of cloth while her husband strides around in jeans or a girl who is supposed to enter into a forced marriage? That’s a scandal no matter what culture you belong to” (Schiessel and Schmidt 2004). In the same interview, she refers to “forced marriages” in the same breath as “forced” wearing of headscarves.

This casual conflation of the two issues appears in academic feminist journals. In an article appearing identically in both *femina politica* and *beiträge zur feministischen theorie und praxis* in 2003, and thus presumably judged to be important, Rahel Volz decries the presence of forced marriage and veiling among migrants, suggesting that even an ostensibly willing choice is the result of “terrible psychological pressure from families, trying in this way to maintain their cultural identity at the price of women’s mental health” (*femina politica* 2003, 72). The call for state intervention is seen as protecting Muslim women who are subject to a controlling Islamic patriarchy in the private sphere. This problem is framed as unique to Muslim women’s experience of the private sphere; German women who claim that they have chosen a particular form of dress or lifestyle are not presented as succumbing to coercive social pressures to embrace a “typically German” identity.

The concern about choices expressed by Muslim women not being authentically their own is echoed repeatedly in antiheadscarf feminists’ call for state involvement in the private life of Muslim families. Well-known feminists Halina Bendkowski and Helke Sander

emphasized in their interviews that Turkish women should receive “the same” state legal protections as German women. Bendowski, quoted in an article about headscarves in *Zweiwochendienst*, asks “where are the feminists? . . . The subordination of girls and women has been idealized as cultural self-assertion” (“Ein Stück Stoff . . .” 2003, 20). Sander similarly argues that it is legitimate to question Ludin’s motivation and to ask whether “her headscarf is really only worn for personal religious convictions or if it is the tip of the iceberg which will bring in women’s subordination” (2004).

Sander wants the state to examine the internal decision-making of migrant families to see if they conform to Article 3 of the Grundgesetz (Constitution) that mandates equality between women and men, suggesting that “state officials should make sure that women immigrants are under the protection of the Basic Law and have the freedom to make their own decisions” (2004). The idea that the state would know better than women themselves whether a choice is authentically what they want is antithetical to the principle that these same feminists espoused in earlier abortion debates, where women were said to know better than any judge or doctor what was in their own interests (Ferree 2003). The intervention of the state can only be framed as necessary in the one case and not in the other to secure “the same” substantive right (autonomous decision-making) because “Muslim culture” is framed as oppressive to a degree that German culture is not.

This stance is consistent with a German understanding of the state as a corporatist actor that intervenes to secure specific substantive rights by its positive actions in support of collective interests. The surprising shift is in how willing antiscarf German feminists, as represented here by Bendkowski and Sander, are to see the state as acting “for women” in the case of Muslims. This turn to the state as a benevolent protector is endorsed by over a hundred co-signers to Bendkowski’s open letter to Marieluise Beck, *Ausländerbeauftragte der Bundesregierung* (the Government Representative on Non-citizens’ Issues).

The importance of how feminists view the state emerges clearly in their debate. Beck is an outspoken opponent of headscarf bans, arguing that “a symbol that only affects women should not hinder entrance into societal institutions” (“Ein Stück Stoff . . .” 2003, 20), framing it as a type of discrimination. In her view, the constitutional guarantee of equality between women and men applies in the public sphere, and a headscarf ban would violate this public freedom. Bendkowski’s letter instead extends the reach of the Basic Law into the family, and claims that some women “live in a rights-free space” unprotected by the Basic Law (Bendowski et al. 2003).<sup>13</sup> This

“rights-free space” is not the public domain in which landlords or banks are free to discriminate against Muslim families, but rather the private realm of the family in which Muslim men are the unique oppressors of Muslim women. Thus the state does not get asked to be an ally for Muslim (and German) women in confronting discrimination, but rather to be an ally for German women (and men) in confronting a disturbing cultural practice in their midst.

### *The Pro-Scarf Position*

As the antiscarf advocates themselves make clear, the issue of the authenticity of women’s choices is a core aspect of whether the state should be invited to intervene or not. Pro-scarf feminists argue that wearing a headscarf may be a free autonomous choice and that, by the state allowing Muslim women to wear headscarves in the German public sphere, their greater incorporation into German society may be encouraged. This more individualist and liberal interpretation of the role of the state, not as a guarantor of substantive rights (positive liberty) but as a protector of freedom of individual choice (negative liberty), figures strongly in this line of argument.

This side of the argument is taken up by non-German advocates as well as by some German feminists. For example, several articles in *femina politica* and *beiträge zur feministischen theorie und praxis* took the position that Muslim women may be individually choosing to wear their headscarves, that the wearing of a headscarf itself is not necessarily a form of oppression, and that women’s choices should be respected. Unusually for this publication, *femina politica* offers an article in English by a respected American scholar of German politics, Joyce Mushaben. Mushaben chastises German feminists for their lack of respect for Turkish women’s freedom of choice and paints this as an issue that American feminists can scarcely grasp. She is not an apologist for Muslim culture: she cites social problems resulting from patriarchal, uneducated Turkish families to argue that girls need more support from schools. But she frames public freedom as the remedy for private oppression. Schools should provide the “ultimate refuge for women and girls who face subjugation at home or in their religious communities” (2004, 103).

In the same issue of this journal, a leading feminist legal scholar, Sabine Berghahn, argues for Turkish women’s right to wear headscarves by noting that although wearing the headscarf may imply lack of equality with men, it also allows Muslim women to pursue education and employment while remaining tied to their heritage (2004, 54). She argues, as Beck did above, that while Muslim women may be unequal to Muslim men in *their* private sphere, this does not mean that they should be denied equal opportunities in the

*common* public sphere by the German state (although she does not connect this to the ADG that was pending at this time). Like Mushaben, she argues that Muslim populations in Europe exposed to contexts of democratic rights will “modernize” their gender relations themselves, without state intervention (2004, 55).

The non-ethnic-German women writing in these feminist journals also take a position against state intervention against the headscarf but they additionally embrace more active efforts by the state to prevent discrimination and other forms of public oppression. A special issue of *beiträge zur feministischen theorie und praxis* 63/64 dealt with migration in Germany, and the editors explicitly contrast German feminists and migrant women’s perspectives on state action (2003, 8, 13). Also in this issue, a Turkish-German author describes Turkish women’s exclusion from immigration discourse (Celik 2003) and other articles address migrant women’s limited employment opportunities and the particular situation of asylum seekers. This 2003 call for greater attention to migrant viewpoints does not appear to have stimulated attention to these concerns when the ADG was introduced the following year.

The mainstream media sometimes include Muslim women in their coverage, though this is not common. In addition to the prominent antiscarf advocates, Ates and Kelek, some pro-scarf voices appear. The *Frankfurter Allgemeine Zeitung*, a paper with neoliberal leanings, related a discussion with Muslim women about the meanings of their head covering and noted with dismay that “those who wear headscarves only seldom and reluctantly enter these discussions” (Küpper 2004, 4). In the article, Muslim women are reported to say that they wear their head scarves out of their own “free will.” One woman describes her increasing religiosity; as she decided to wear her headscarf, she was treated more respectfully in public and no longer as a sex object (2004, 4). This liberal definition of the issue as one of “free choice” is relatively rare in German feminist media, and—as Mushaben argues—more characteristically an American approach.

The assertion that Muslim women are reluctant to discuss the meanings of their headscarves must be viewed in light of the tenor of discourses which surround their doing so. As Weber argues in an excellent overview of headscarf debates in the German media as a whole, observers easily slip into seeing the headscarf as controlling the overall space for female agency (2004, 53). Not only in court but also in interviews, Ludin has maintained that wearing a headscarf is her personal religious choice, that it is not political, and that she is not forced by anyone else to wear it.<sup>14</sup> But Fereshta Ludin’s own interpretations of her actions are presented as irrelevant in the

discourse surrounding her case and her ability to make choices as an individual with agency is denied (Weber 2004). Moreover, as a survey of mainstream German newspapers coverage of all immigration issues in the 1990s discovered, the papers very rarely cite Turkish immigrants as making any sort of public claims on the state (Koopmans and Statham 1999). Although frequently cited decrying xenophobia (32 percent), Turkish-German speakers were not used to present a case for positive integration or antidiscrimination politics in Germany (6 percent of the quotes).

In sum, both the pro and antiheadscarf positions taken by ethnic German feminists present the German public sphere as a realm of freedom rather than oppression for women. By focusing on the distinctive private oppressions of Muslim women within their families and communities, these feminist speakers tend to obscure the forms of public oppression—such as housing, credit, and employment discrimination—that Muslim women face along with the rest of their families and communities. While the antiscarf feminists promote active state intervention into the “private sphere” of lived experience, the pro-scarf feminists expect existing guarantees of public freedom to be sufficient to entice and enable Muslim women to choose freely to leave their culture behind in seeking “refuge” in Germany. The state’s willingness to intervene in the public sphere to ensure equal opportunity for women and men, migrant and not, Christian and Muslim, is rarely seen as a precondition to this freedom. The state is instead primarily imagined by German feminists as a benevolent protector when it deals with Muslim women, a sharp contrast to how it has been seen when German women’s autonomy is directly at stake, as in the abortion debate (Ferree et al. 2002).

## Conclusion

At a fundamental level, debates about social policy always involve principles about state boundaries and belonging: who is a citizen, what citizenship entails, whether and when the state can be trusted to act on its citizens’ behalf. Feminist debates about social policy are no different. Issues of national identity are deeply infused with gender politics, as the EU defines a modern nation-state as one that legally guarantees freedom from all forms of discrimination to its members and European states grapple with whether women’s wearing headscarves is a legally protected freedom or the very epitome of gender oppression.

In this paper, we have not only shown that German feminists are struggling to a much greater extent with the latter question than with the former, but have also explained this difference in terms of

German feminists' understandings of the state. When the problem that the state should address follows a cleavage in which German women are identified with other marginalized and excluded groups, there is little feminist confidence that the state will act to prevent discrimination and the policy debate is at best formalistic. By contrast, the cleavage between Muslim communities and ethnically German ones places German women on the side of the mainstream and sharply increases expressions of feminist confidence in the state. The sharp focus on the "headscarf debate" in both popular and feminist media defines the locus of gender oppression as the "other" and allows the problem of discrimination in public accommodations, housing, credit, and schools to fall into shadow. By discursively separating the problem of discrimination on the basis of race/ethnicity from "gender issues," ethnically German feminists define the ADG as "not relevant to women," making Muslim women invisible as women with a stake in public guarantees of fair treatment. If indeed, as pro-scarf feminists argue, opportunities offered in the public sphere are crucial for encouraging Muslim women in Germany to assert themselves and realize their freedom, then an effort to reduce discrimination against them would seem to be an important first step.

But by focusing their energies on a heated debate over what the German state should or should not allow Muslim women to wear in positions of public responsibility—rather than on the state countenancing discrimination making it extraordinarily difficult for Muslim women to attain such jobs—ethnic German feminists cast the state in the role of protector rather than oppressor, and thus can more readily align their interests with those of their own German families and communities. Both pro- and antiscarf feminist positions thus manage to obscure the significance of their own cultural allegiances even as they decry those of the immigrants among them.

Within the framework of the headscarf debate, the discriminatory impact of German civil society on Muslim women is obscured. Discrimination can lead some women to identify even more with their families and communities and also encourage them to adopt a headscarf as a form of political resistance. But the institutional sources of cultural oppression cannot be acknowledged in a framework in which the courts will legitimate wearing a headscarf only if it is defined as a "personal religious choice." That laws against headscarves might be struck down as discrimination on the basis of religion or ethnicity hardly creates support for an antidiscrimination law in Germany, even among feminists who defend Muslim women's personal choice to wear one.

In defending the "universal human right" to make autonomous choices in such matters as marriage and dress, antiscarf German

feminists claim only to want the state to guarantee to Muslim women a freedom they believe they enjoy themselves. Feminists who resist such laws argue that they are the ones defending women's universal human rights, claiming that the principle of respecting women's own choices means accepting the reasons Muslim women give as authentic. Neither group frames the oppression of women happening outside of Muslim communities as significant in pushing women into such choices, thus making Muslim women's political resistance to discrimination in Germany as invisible as the discrimination itself. Although discrimination against Turkish-origin women in employment, housing, and credit markets complicates and undermines their ability to leave their supposedly coercive families, non-discrimination is not framed as an important feminist issue or a universal right.

As Ferree and Roth (1998) suggested with regard to feminist engagement with working class women's issues, the challenge of intersectionality lies in practice at the point where "other" women's issues are framed as being about their class or race rather than about gender as such. The ADG had implications for women's free choices of where and how to live, but was not treated as a crucial issue for "women" insofar as it was framed as really only important for racial/ethnic communities. What Ferree and Roth call "exclusive solidarity" is a stance that defines each axis of oppression as having "its" normatively appropriate collective representative. Thus class issues belong to the labor movement, race, ethnic, national, and cultural issues are represented by the *spokesmen* for those communities, and feminists are legitimately entitled to speak only about gender.

In a corporatist state such as Germany, this exclusive solidarity is institutionalized in structures and discourses of political decision-making. When ethnic-German feminists navigate this difficult terrain, their focus on the headscarf unites their interests with those of their ethnic/national community. The ADG had the potential to define feminist interests "as women" as also encompassing public discrimination, thus forging a strategic alliance across differences that made gender only one element in a broader matrix of domination. This was a chance that was, regrettably, lost in 2005, when the first ADG bill went down to defeat with little feminist outcry.

Since the supposed centrality of universal rights to both sides of the headscarf debate means that this cannot be the real issue dividing them, we interpret it as more crucially revolving around the interpretation of the role of the state. When difference is taken as a license to intervene in a spirit of sisterly protectiveness in the lives of women who are seen as "other" and "backward," whether among migrants in Europe or in countries such as Afghanistan or Iraq, it

can be a means of making oppressive conditions facing women “at home” seem relatively harmless and minimize feminist mobilization against it. By contrast to the “severe” oppression of women in Muslim communities, the oppression facing German women at home seems “mild.” Wade (2006) shows this pattern of nationalist co-optation of feminist discourse in the US debate over female genital cutting as well. As in this case, feminist framing the state as an ally in “helping” other women, makes the definition of “universal” human rights selective and leaves out one’s own state’s support for discrimination and subordination (Tripp 2006).

More symbolically, as Otyakmaz (1999) argues, women’s use as representatives of a nation’s cultural identity leads gender politics into being used to express one nation’s achievement of equality and democracy and another’s “backwardness.” This dynamic was evident in the EU embrace of gender equality as a criterion for joining the union (Roth 2008). Feminists themselves, interested in steering the gender order toward greater equality, should be especially wary of how a focus on gender can lead to claims to cultural superiority. In this case, German feminists have a national identity as modern and democratic, a path-dependent skepticism about liberalism, and an experience of increasing inclusion within the state to support their loyalty to a cultural project that defines them as already enjoying free and equal citizenship. They are far from alone in facing the theoretical challenge of finding a route to feminism that can both acknowledge the specificity of women’s intersectional experiences and yet not allow a focus on “difference” to justify nationalism, exclusion, or discrimination.

## NOTES

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1. Turkish immigrants make up more than two-thirds of Germany's Muslim and immigrant populations. Recent estimates suggest that there are 2 million Turks in Germany and that approximately 900,000 are women (See Blaschke and Sabonovic 2004). See Klopp (2002) and Stowasser (2002) for accounts of Turkish migration to Germany.

2. Also see Christian Rath (2004b) and Roland Preuss (2005).

3. See "Entwurf für ein Antidiskriminierungsgesetz vorgestellt" (2004) for a detailed outline of EU mandates and the content of the 2004 ADG proposal. The text of the law finally passed in 2006 can be found at <http://dip.bundestag.de/btd/15/045/1504538.pdf>.

4. See Christian Rath (2004a).

5. The Green Party supported the bill more than the SPD did, but it is highly unusual for internal challenges such as Schily questioning the "bureaucratic effects" of the bill and predicting a landslide of litigation ("Grüne wollen im Antidiskriminierungsgesetz..." 2006) to be aired so publicly. See also "Müntefering bleibt hart; SPD-Chef: Antidiskriminierungsgesetz kommt" (2005).

6. See European Anti-discrimination Law Review (2005) for more comparative information about antidiscrimination legislation in EU countries.

7. Ates Altinordu (2005) has provided a succinct legal analysis of the headscarf debates and cites the following journals for legal decisions: VG Stuttgart, Urt. V. 24.3.2000-15 K 532/99. *Neue Zeitschrift für Verwaltungsrecht*, 2000, 959. VGH Mannheim, Urt. V. 26.6.2001-4 S 1439/00. *Neue Juristische Wochenschrift* 2001, 2899. BVerwG, Urt. V. 4.7.2002-2 C 21/01. *Neue Juristische Wochenschrift* 2002, 3344.

8. From Ates Altinordu (2005): VG Lüneburg, Urt. V. 16.10.2000-1 A 98/00. *Neue Juristische Wochenschrift* 2001, 767.

9. This judgment can be found at: [http://www.bverfg.de/entscheidungen/rs20030924\\_2bvr143602.html](http://www.bverfg.de/entscheidungen/rs20030924_2bvr143602.html).

10. See for example Schmidt (2003) cited in Altinordu (2005). Also see Weber (2004) and Berghahn and Rostock (2006).

11. See Raasch (2005).

12. See Preuss (2005).

13. See also “Frauen wehren sich gegen ‘Lex Kopftuch’” (2003).

14. See: Oestrich (2003) and Oestrich and Kresta (2003). Ludin’s own words are that she would feel “exposed” (entblösst) if forced to appear without her headscarf (Schmitz 1998). “Die Kopftuchlüge” (1999).

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