

# **Religion, Gender, and the Public Sphere**

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and Stacey Sriver**

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# 1 Cultural Agency, Critical Agency

## Multicultural Feminist Perspectives

Sawitri Saharso

### INTRODUCTION

In 1997 two abortion practitioners stated in a Dutch television program that the fact that the fetus was the “wrong” sex was no reason to refuse a termination. The Netherlands was confronted with sex selective abortion (SSA). SSA involves the identification of the fetus’s sex during pregnancy using prenatal diagnosis, followed by abortion of the fetus if it proves to be of the undesired, that is, female, sex. There followed a debate on whether the Dutch abortion law is too liberal. Should women’s right of choice include any choice? One participant to the debate reacted by arguing that this was a false dilemma. He argued that it would seem in this case that individual autonomy (the woman decides) clashes with the principle of equality between men and women. But, he continued, it only *seems* this way. If a woman does not want a child because she does not want to interrupt her career, or because she is unemployed and will have to take care of the child entirely by herself, then these are critical situations experienced as such by the individual. What we think about these personal motives is irrelevant: “If the motive is serious enough for her, who are we to contradict her?” The situation is different, he argued, in the case of a Muslim woman who does not want any more girls. In that case “it is not a matter of an individual desire, but of a culturally imposed demand: thou shalt bear males,” and, according to the author, Anil Ramdas, we should not sympathize (Ramdas 1997: 7).

This wish is the result of the “male chauvinism within Islam” and should therefore be rejected. What is more, by showing sympathy, “the Minister abandons Islamic women and sticks a knife into the back of the incipient emancipation movement in that culture” (Ramdas 1997: 7). The author was wrong in assuming that SSA is a practice of Islamic communities, as it is carried out in countries such as India and China on a large scale and has led in some Indian states to an imbalanced child sex ratio (see United Nations Population Fund [UNFPA] n.d.). But otherwise SSA seems to be a perfect example of what Susan Moller Okin (1999) warned against. As some—in Okin’s view, most—minority group cultures are sexist, by accommodating minority group cultures, we let minority group women down. Yet, women

sometimes claim the right to live by traditions that in the eyes of others endorse their subordinate position. So-called harmful traditional practices like female genital cutting are often performed by women on women. How should we see the moral agency of these women? Are they victims of their culture whose consciousness is so indoctrinated they cannot think for themselves? Parekh (1999: 73) warns against this thinking: “We should avoid the mistaken conclusion that those who do not share our beliefs about their well-being are all misguided victims of indoctrination.” Yet gender inequalities within minority groups do exist. To assume that minority women are fully free to decide for themselves is ignoring their social circumstances. The challenge is therefore to keep the critical stance of feminism that wants to address gender inequalities wherever they occur, and recognize the moral agency of minority women. This is in a nutshell the problem I want to address in this contribution. In the following I shall discuss three strategies to deal with this challenge: a principled approach, a democratic approach, and a contextual approach.

### THE PRINCIPLED APPROACH

This approach takes as its starting point fundamental liberal rights and principles, such as freedom and equality, and establishes the limits of tolerance by determining whether a practice is consonant with these rights and principles. A principle-driven approach that wants to prevent women being forced to lead oppressive lives, yet wants to avoid paternalism, is found in the work of Marilyn Friedman (2003). She summarizes her position as follows:

Cultural minorities should not be allowed to engage in practices that violate women’s rights or general laws unless *the women themselves consent to those violations*. The consent of women must occur under conditions of *genuine content-neutral autonomy*. 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-violating practices. (Friedman 2003: 192, italics in original)

Friedman makes a distinction between a content-neutral conception of autonomy and a substantive conception of autonomy. The substantive autonomy of a choice depends on the content of what is chosen, requiring that these contents be consistent with the value of autonomy. The content-neutral autonomy of a choice depends only on the question of whether the choice is made under conditions of autonomy. A choice to live a life of total servility would not, following a substantive account of autonomy, qualify as an autonomous choice because a servile life is not consistent with the value of autonomy. But according to the content-neutral account, we should

accept that choice, if it is made autonomously. When is a choice made autonomously? Women's choices and views are reliable indicators of consent only under three conditions: (1) There must be something to choose between—the women must be able to choose among a significant and morally acceptable array of alternatives; (2) women must be able to make their choices free of coercion, manipulation, and deception; and (3) they must possess the mental capacities for autonomy and be able to reflect on their situation and make decisions about them (Friedman 2003: 192).

What is the advantage of this distinction? We usually argue that a traditional practice like female genital cutting (FGC) is such a bad thing that no woman would ever voluntarily choose it. The severity of the outcome and the content of the choice determine for us whether a choice is voluntary. This contains the risk of what Parekh (1999: 73) warned against: to assume, if people consent to a practice that is very alien to us, that they are not really capable of autonomy. Friedman's distinction helps to avoid this cultural trap. Yet, her approach also has its Achilles's heel. It is not clear what should happen if women's choices do not meet her three conditions of autonomy. Should their choices be ignored? That would be in contradiction to Friedman's ambition to pay more respect to the choices of minority women (see Okin 2005: 79).

## THE DEMOCRATIC APPROACH

In a democratic approach, it is democratic deliberation that should define whether or not a practice is to be tolerated. The basic idea is that all parties concerned participate in the deliberation and that after all have spoken, this public deliberation will have generated a compromise that all parties are willing to accept. Monique Deveaux (2005) has illustrated the democratic approach with the case of the South African Customary Marriage Act. Apartheid had oppressed the South African people and their customary laws, but there is also the patriarchy of the customary laws that is oppressive to women to be considered. If customary law would be reformed so that it no longer is oppressive to women, then this would amount to abolition of the law instead of recognition, which after so many decades of cultural oppression under apartheid was unwanted. Instead, representatives of a wide range of groups were consulted, and there was much frank discussion about the actual lived practices of customary marriage. This led to a partial reform; women for instance got the right to initiate divorce, but polygyny was not outlawed—one of the concessions made to the chiefs. Not all were happy with the outcome, but the compromise reached was seen by most as a fair and legitimate outcome. Deveaux believes that a democratic solution to conflicts of culture is likely to yield more beneficial reform, and she expects this to have greater legitimacy. It is very important, if we are to decide on the toleration of oppressive practices, that those whose lives

are most directly touched by it, are consulted. What are their experiences? What are their views on their culture? And what are their views on possible interventions by the state in the group's internal affairs done on their behalf? Consulting with minority women seems therefore essential, in particular consulting with the most vulnerable ones: young women. Crucial in the democratic approach is that all can have their say. Therefore, certain conditions must be met.

1. Traditional leaders must not be able to silence dissenters through overt or covert modes of oppression: the principle of noncoercion.
2. There must be real opportunities for all group members to participate in the debate and decision making: the political equality principle.
3. The aim is not to arrive at final solutions. Circumstances may change, people's views may change, and they may want to change an arrangement that they originally were happy with: the principle of revisability. (Deveaux 2005: 350–51)

Still, it is problematic in a context with huge differences in power to ensure that women dare to openly state their views on gender oppressive practices. Moreover, in a democratic approach, there is no guarantee that the democratic procedure will lead to liberal, nondiscriminatory outcomes, because it feels bound to accept the outcome of democratic decision making (hence is democratic, but not necessarily liberal).

## THE CONTEXTUALIZED APPROACH

The contextualized approach claims that both liberalism and culture must be contextually understood. The most radical deconstruction of culture yet, combined with a plea for multicultural policies, is developed by British political theorist Anne Phillips (2007). Her critique on much of multicultural theory and its feminist critics alike is that in the debate about tensions between gender equality and cultural diversity, non-Western or minority cultures have been reified as distinct and robust "things" that determine the beliefs and behavior of their members. This ignores the agency of non-Western people as if they were incapable of autonomy—that is, to choose for themselves how they want to shape their (cultural) identity. Non-Westerners "are" thus their (monolithic unchanging) culture, as either victims or perpetrators, while Westerners are only influenced by (plural, fluid, and changing) cultural environments. Phillips's approach is based on "respect for culturally diverse individuals," not "recognition of things called cultures" (Phillips 2010: 10). She recognizes that minority women often have an interest in remaining within their culture. Policies aimed at improving their lives should be sensitive to their cultural identities and their interests. These policies may look to accommodate minority cultures, but they are driven not

by the desire to pay respect to minority cultures, but rather to respect the culturally constituted individual minority women. The approach is driven by a radical individualism and in that respect is truly liberal. Questions of autonomy are therefore not discussed as if qualitatively different questions for people of different cultures; they pertain to all of us. For example, when discussing forced marriage, Phillips is keen to recognize that familial pressure to marry within one's own ethnic or religious group operates across all cultures and that the distinction between a couple-initiated, arranged, and forced marriage is a gradual one (Phillips 2010: 111). It is striking how often Phillips speaks of "people" without further adjective.

Phillips summarizes her position as follows:

When multiculturalism is represented as the accommodation of or renegotiation with cultural communities or groups, this encourages us to view the world through the prism of separate and distinct cultures. We see ways of life struggling to survive; we see clashes of cultures. If we are feminist critics, we may see the oppressed female victims of patriarchal ways of life. The individuals, in all their complexity, disappear from view. My object here is a multiculturalism without this conception of culture, a multiculturalism that dispenses with reified notions of culture or homogenised conceptions of the cultural group yet retains enough robustness to address cultural inequalities. Working out the precise implications in terms of policy relies heavily on the context: we should expect different policies to be more or less appropriate in different political and historical contexts, and should not imagine there to be only one morally permissible arrangement deducible from nonnegotiable general rules. (Phillips 2007: 179)

If one wants to know what measures are required as a matter of justice in the case of traditionally harmful practices, it is no use to expect that liberal principles will prescribe what to do. Liberal principles are generic, so runs the contextualist argument, and therefore too indeterminate for this task. One needs to immerse oneself in the specifics of a case and argue out how the different principles and interests at stake should be understood and balanced against each other and thus reach a contextual sensitive judgment (see also Carens 2000). To come back to my example: In the Dutch debate on SSA the practice was discussed as an incomprehensible choice stemming from a misogynist culture. When we immerse ourselves in the backgrounds of SSA, we will find that in India, according to tradition, the bride's family is expected to give the bride a dowry, but the families involved often cannot afford the expensive dowry they are supposed to give their daughter in marriage. To find a suitable husband for yet another daughter might economically ruin the family. Moreover, as upon marriage a woman becomes part of the family of the man, it is sons who look after their parents when they get old and needy. In a society where there is no welfare state and no old age pensions, sons are thus very important for one's survival in old age. These are culturally specific reasons, yet reasons that we can understand

across cultures. We should therefore not assume too quickly that the women concerned are not capable of defining their interests (see Saharso 2007). This does not stop SSA from being morally wrong. Policies against SSA are necessary, but they should take into account the culturally shaped identities of minority women. While the Dutch debate on SSA focused on whether the abortion law should be tightened so as to ban SSA, a contextual analysis would point to the necessity of a policy that tackles the cultural context that gives rise to requests for SSA (see Saharso 2005a, 2005b). Phillips's contextualist approach, which puts individual human agency at its core, has its price too. If people have entirely internalized their culture's oppressive norms and are unambiguously convinced that this is how they want to live, there is little this approach can do about it. In Phillips's own words again: "[My approach] limits the kind of protections that can be offered to individuals choosing what others may consider self-denying or self-destructive behaviour" (Phillips 2007: 179).

It may be that Phillips overestimates people's ability for autonomous choice in contexts of power and culture that entail severe constraints to autonomy. Friedman's conditions for content-neutral autonomy are so strict that it is not likely that many minority women's choices will meet them. Her principled approach may therefore in the end ignore the moral agency of minority women, while Deveaux's democratic approach may end up being too tolerant. My personal preference is, at the moment, the contextual approach, which entails a constructivist perspective on culture and human rights. It recognizes more fully than the other two approaches that identities are culturally constituted, yet have the capacity of autonomy. Secondly, it recognizes that in different cultures, different cultural values thrive, yet it makes transcultural understanding and solidarity conceivable. Perhaps my main reason to prefer Phillips's contextualized approach is that it is not based on an *a priori* distinction between the West and the rest, as her basic premise is that we are all culturally constituted individuals.

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