

# Rescuing Muslim women from or by sharia?

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Islam vs. women's rights: framing of the Dutch sharia debate by the media in 2012



Rescuing Muslim women from or by sharia ?



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*The image on the cover contains an artwork of Shepard Fairey (Arabic woman).*

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## 0 Foreword

*Special thanks to my dear teachers Eva Midden, Babs Boter and Kathrin Thiele.*

*Thanks to my dear friends, Fouzia Outmany, Annebregt Dijkman, Assia Moutahhir and  
Ronald Kroon.*

In the autumn of 2009 I attended the conference ‘Learning to be a Peacemaker’ on Islam and the peacemaking essence of sharia, in Caux (Switzerland). Shortly after I returned to The Netherlands I went to a debate night at the Rode Hoed, Amsterdam, together with some other Muslim peacemakers. There, ex-politician Femke Halsema held a speech about sharia, and why we have to avoid the implementation of sharia in The Netherlands – claiming the negative effect of sharia on women’s rights.

At the end of the night I approached her kindly and shy, and probably my appearance built a wall between me and her because she didn’t answer my question. I asked her why she only highlighted and discussed excessive and unjust interpretations of sharia without acknowledging that Muslims are very diverse in their interpretations of sharia. I told her not to be afraid of the sharia because it is pragmatic jurisprudence of which the main aim is to preserve life and peace.

Halsema said: “If you come here to defend the sharia I’m not interested” and she turned around and continued her chat with some of her equals. Maybe she wasn’t interested in talking with a young girl who thought she could fix the misunderstandings about sharia without touching on the problematic sides of the political aims of sharia proponents nowadays.

Seen in retrospective, this incident wasn’t caused by our difference in position, age or religion. This was part of a national and international discourse about the incompatibility of Islam and the West, which manifested in controversial media debates about the headscarf, minarets and sharia and much more.

Imam ibn al-Qayyim al-Jawziyya (died in 748 A.H., 1347 A.C.) wrote:

“The Islamic law is all about wisdom and achieving people’s welfare in this life and the afterlife. It is all about justice, mercy, wisdom, and good. Thus any ruling that replaces justice with injustice, mercy with its opposite, common good with mischief, or wisdom with nonsense, is a ruling that does not belong to the Islamic law.”<sup>1</sup>

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<sup>1</sup> Crane, The American Muslim, 5 July 2010

# 1 Introduction

The current public debates related to integration and multiculturalism in The Netherlands are mostly about Muslims.<sup>2</sup> In Western media, Muslims are represented as the *other* and discussed in generalizing statements.<sup>3</sup> In 2012, the NOS, a mainstream news channel, made a video report about the question whether the institutionalization of a sharia council in The Netherlands could be a solution to marital captivity of Muslim women. In other words, the question whether it would make it easier to get an Islamic divorce as a woman when there is a centralized body of imams that settle disputes on the basis of Islamic verdicts. The representations of Islam, sharia law, religious divorce and Muslim women contained a lot of assumptions and stereotypes in this debate. According to Wasif Shadid and other communication theorists, media contribute to the spreading of negative images on ethnic others and to their discrimination in society.<sup>4</sup> An in-depth media analysis of the sharia debate is needed in order to get a better understanding of the way the sharia debate was held.

## 1.1 Context sharia debate

In the spring of 2012, shortly before the debate about sharia councils erupted, the relatively new organization Femmes for Freedom launched a campaign to ask attention for three issues that affect women and children of mainly minorities in The Netherlands: forced marriage, abandonment in countries of origin, and marital captivity.<sup>5</sup> The latter issue means that a woman initiates a religious divorce, but doesn't get cooperation from her (ex-)husband, and is forced to stay married religiously, although she is often already divorced in civil court. The website of Femmes for Freedom explains this problem:

“The issue of ‘chained women’ or marital captivity is found within Muslim, Jewish, and Hindu communities in the Netherlands. Women from these various religious backgrounds often marry twice: The first marriage is the Dutch civil marriage, the ‘second’ marriage ceremony takes place in a church, synagogue, mandir or a ceremony performed by an Imam. When these women wish

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<sup>2</sup> Midden, 2010: 130

<sup>3</sup> Shadid, 2005: 334

<sup>4</sup> Shadid, 2005: 330

<sup>5</sup> Founded on 11 December 2011

to divorce, they have to divorce twice: according to Dutch civil law and according to their respective religion. A Dutch court can only dissolve a civil marriage, it cannot end a religious marriage. When a woman wishes to end her religious marriage, she usually is reliant upon the cooperation of her (ex-)husband. If he, however, refuses to cooperate she will remain trapped in the religious marriage. This puts women in a position of discrimination and oppression; a position from which they experience negative consequences both in their religious community in The Netherlands and in their country of origin. (...)States need to take all appropriate measures to also eliminate this discrimination against women (article 16 CEDAW).”<sup>6</sup>

In The United Kingdom there is a body of imams that dissolves Islamic marriages: the Islamic Sharia Council, London. It is not an official court operating with state law, but it does settle disputes between Muslims in the form of arbitration or mediation.<sup>7</sup> Since there are no such organized sharia councils in The Netherlands, Dutch Muslim women travel to London to opt for marriage dissolution. Around 20 Dutch Muslim women per year, with a total of 100 already, often successfully opted for divorce in London. It is however difficult for Muslim women who cannot travel to such places to dissolve their marriages.

The solution Femmes for Freedom proposed for Dutch Muslim women was expanding the legal definition of forced marriage by including the term ‘marital captivity’, so that Muslim men can be forced in Dutch court to cooperate on the religious divorce.<sup>8</sup> The NOS news broadcast explored another solution in their news item: “should the Dutch Muslim community also institutionalize a sharia council in The Netherlands, as a solution for Muslim women who initiate a divorce?”<sup>9</sup> The possible answers to this question were given by spokespeople, journalists and columnists in over a dozen news items, news articles and opinion pieces, which form the case study for this thesis.

Since the question whether a sharia council should be institutionalized was related to women’s issues from the start, it caught my attention as a Gender Studies student. The framing of the relationship between Islam and women’s rights by Dutch media is mainly based on the assumption that marital captivity is a specific problem of Muslim women, due to the way Islam deals with human and women’s rights. To analyze the framing of the sharia debate, I will perform a media analysis.

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<sup>6</sup> <http://www.femmesforfreedom.com/english>

<sup>7</sup> <http://www.islamic-sharia.org/>

<sup>8</sup> <http://www.leidenlawblog.nl/articles/femmes-for-freedom-fighting-against-marital-captivity>

<sup>9</sup> NOS JOURNAAL 20:00h, 11 June 2012

## 1.2 Research question

Since the beginning of the millennium sharia law was discussed in Dutch media and politics. Every now and then this became a media hype. In the summer of 2012 Dutch media and politics discussed sharia law again. This time the debate was gendered from the beginning, whereas before the emphasis was more on integration for example and women's rights was only discussed as an element.<sup>10</sup> These debates often started with the question whether a sharia council should be allowed in The Netherlands, and touched upon fundamental rights and interests like freedom of religion, national and cultural identity, freedom from hatred, the role of the state in family law,<sup>11</sup> and the separation between Church and state. Islam is often related to these rights as problematic, conflicting or threatening. These debates are rooted in discussions about the multiculturalist society and the compatibility of Islam and Dutch culture and I want to know whether the 2010 debate is also framed in this way. My main research question is therefore:

*How did Dutch mainstream media in the summer 2012 frame the debate about the idea of institutionalizing a sharia council in the Netherlands and what was the role of gender in these representations?*

To answer this question, I will look at the different participants of the debate and their position. Minority groups in general and Muslim women in particular, struggle to be heard on their own terms.<sup>12</sup> Since Muslim women are the topic of discussion in this sharia debate, I am interested in knowing whether they were only being talked about or also actively participated in the debate, or at least whether they got the opportunity to let their (diverse) voices be represented.

When the media focused on the campaign of Femmes for Freedom against marital captivity, 'the face' of the campaign was chairwoman Shirin Musa, a Dutch Muslima with roots in Pakistan. In different media interviews she was presented as the living example of the marital captivity story, since she had a difficult experience herself when she wanted to get her Islamic divorce.

Weekly news magazine Vrij Nederland and daily newspaper NRC Handelsblad published interviews with Musa in March 2011, in which detailed information is given about her personal story and the law case

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<sup>10</sup> Berger, 2006

<sup>11</sup> Farrow, 2006:79

<sup>12</sup> Dreher, 2009: 447

she held against her ex-husband.<sup>13</sup> On the one side Musa is portrayed as a victim of Islamic law and Muslim men, but on the other side she is put forward as a heroine, who liberated herself successfully from her Islamic marriage through a law case in a Dutch court. She was an active participator in the media discourse in that time, not only because she got these opportunities to tell her personal story but also because she founded the organization and started the media campaign to help other women.

This heroic representation of 'the Muslim woman' seems to change earlier modes of representation in which 'the Muslim woman' is merely a victim of her patriarchal religion and culture.<sup>14</sup> The mode of representation seems to move from victim in the direction of heroine, from object to subject of discussion, from background to protagonist and expert. In this line of expectations, I want to know whether Muslim women are represented more in quality and quantity, and if Muslim women have leading roles in the debate. Through the first sub question I will discuss the different participants in the debates and their representative function:

- *What kind of role did Muslim women themselves have in the debate?*

Anna C. Korteweg analyzed the Canadian sharia debate and shows that it framed Islam and women's rights as mutually exclusive.<sup>15</sup> To explore whether this kind of framing is also used in the Dutch sharia debate, I will look at the way sharia is related to Muslim women's rights in the second sub question:

- *How is the relationship between sharia and women's rights framed?*

I will highlight the main statements and arguments that are used in the 2012 debate, and analyze what exactly is seen as a problem and what as a solution. Combined with specific words and images, these arguments construct the way the sharia debate is framed. The concept of framing and the frames that are used most in Western media reports on Islam and Muslims will be further explained in chapter 3 on theory.

### *1.3 Relevance*

My thesis aims to contribute to an inclusive feminist critique. With this, I mean that I want to counter a stand that some secular feminists take when approaching emancipation of Muslim women, namely:

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<sup>13</sup> Kamerman & Pinedo (NRC Handelsblad, 5 March 2011) and Kleijwegt (Vrij Nederland, 5 March 2011)

<sup>14</sup> Razack, 2004: 1

<sup>15</sup> Korteweg, 2006: 50

“Emancipation can only happen when women let go of their religion. Islam is namely incompatible with feminism and emancipation because Islam is pre-modern and feminism is modern.”<sup>16</sup>

Not only do some feminists have this opinion, but this is also the dominant opinion represented in Western media discussions about Muslim women. With this thesis, I hope to contribute to the struggle of recognition of Muslim women, by showing which voices and opinions are excluded from media debates. Media provide shared resources for struggles of recognition, according to Tanja Dreher:

“In the context of the media and communications, justice becomes a question not simply of quantity of airtime or access to the means of production but also the quality of relationships between speakers and listeners mediated by institutions.”<sup>17</sup>

One of the requirements of justice is the recognition of the fact that religion can be compatible with emancipation. When media continue to stereotype Muslim women and frame Islam and women’s rights as mutually exclusive, there is but little space for actual improvement of concrete situations of women.<sup>18</sup> Emancipation means improving women’s positions in concrete situations,<sup>19</sup> so this definition includes women who are practicing their faith and refer to their religion when struggling for the implementation of their rights.

The outcome of my research contributes to the drawing up of an inventory of the current Dutch situation of how we as a society deal with issues on the intersections between gender, race/ethnicity, religion, class, and their linkages with citizenship and the prospects of inclusive, democratic societies. It is important to put the media debate about sharia in perspective, and take Muslim women’s experiences and other insider’s views as a starting point of managing the already existing Islamic marriage counseling in The Netherlands.

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<sup>16</sup> E-Quality, 2004

<sup>17</sup> Dreher, 2009: 454

<sup>18</sup> Korteweg, 2006: 50

<sup>19</sup> E-Quality, 2004

## 1.4 Structure

After this introduction chapter, a chapter follows on the background information on sharia law and sharia debates, which will help to understand the two analysis chapters: chapter 4 on the participation of Muslim women in the debate and chapter 5 on the framing of Islam and women's rights.

I will answer my research questions on the representation of Muslim women in the sharia debate by performing a media discourse analysis on the news items and articles that were published between June and August 2012. I will make use of Michel Foucault's theory on power and discourse, from his book *Archeology of Knowledge*, to show the importance of deconstructing language and privileged knowledge in discourse.<sup>20</sup>

I will base my methodology on critical discourse analysis, in order to be able to analyze theory and critical linguistics. It focuses not only on texts but also on the sociopolitical context. With this method of analyzing it is possible to trace the contextual power relations involved in a discourse and political inequality that is reinforced by it. Critical discourse analysis is very useful because it enables to examine the speaking positions of different participants: which voices are being heard and excluded from the debate and why?<sup>21</sup> In chapter 3 on the methodology, I will elaborate more on this method.

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<sup>20</sup> Foucault, 1972

<sup>21</sup> Eva, 2010: 123

## 2 Background

Sharia law is the subject of many political and social discussions. From these discussions one can tell that misconceptions on the meaning of sharia are widespread. This chapter aims to provide inside into the definition of sharia, the applications of sharia, what it means for Islamic marriage dissolution, and into international sharia debates. This background information is essential for understanding the way sharia is discussed in the media and the extent to which different parties miscommunicate. On a content level, this chapter shows how complex and nuanced sharia is, in opposition to stereotype representations of sharia, thus how complex the answers are to the question what role sharia law can have in The Netherlands.

### 2.1 Meanings of sharia

*The sharia doesn't exist:* there is not one single version of sharia and there is no sharia law book. The term sharia is associated with multiple issues and can refer to many different things. Sharia can be studied as a classical legal system, as it is applied nowadays for example by governments of Muslim countries or 'sharia' as a semi-political slogan. Non-Muslims may associate it with corporal punishment, oppression of women and strict social rules, while Muslims may think of sharia as a divine law which stands for all that is good.<sup>22</sup> There are many misconceptions about sharia and also amongst Muslims themselves there is a lot of ignorance about the origin, meaning and implementation of sharia.<sup>23</sup> In this section I will discuss the linguistic, Islamic and legal meanings of sharia.

The linguistic meaning of *sharia* (شريعة) is 'way' and in a cultural context it means 'way to the source'.<sup>24</sup> In Islam, sharia refers to a set of laws ordained by God, covering all aspects of life in this world through which one can attain eternal salvation in the life hereafter.<sup>25</sup> In other words, sharia is the way to establish social justice in this world and pursue Paradise for the hereafter.<sup>26</sup> In order to reach this goal, not only rituals are prescribed, but every aspect of life is included. Sharia is often translated as 'religious

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<sup>22</sup> Berger, 2006: 2

<sup>23</sup> Bakker, 2010

<sup>24</sup> Masroor, 2009: 17

<sup>25</sup> Masroor, 2009: 17

<sup>26</sup> Berger, 2007

law' and contains laws that benefit the individual and the society: teachings of creed (*'aqidah*), social practices, politics, economics and much more. Contrary to Western law, Islam makes no distinction between religion and life, there is no 'outside' or 'secular' and nothing is being excluded from religion.<sup>27</sup>

Although sharia deals in depth with ethics, it is very restricted in legal substance because of the few legal terrains (family, contract and a little criminal law for example) that are covered in the principle scriptures of Islam.<sup>28</sup> These scriptures are the Quran (the word of God as revealed to Prophet Muhammad via angel Gabriel in the Arabic language) and Sunnah (sayings, actions and traditions of Prophet Muhammad which are recorded in the *ahadith*).<sup>29</sup> The Quran doesn't count many verses that contain explicit prescriptions, rules and laws (*ahkām*): only ±350 out 6236 verses of the Quran address legal issues.<sup>30</sup> Other Islamic scholars estimated this number from 500-620 to 800+ depending on the interpretation of the criterion 'legal.'

This means that the majority of laws are interpreted or deduced, and the total of these interpreted laws increases through time as Muslims face new life situations every day. To extract laws from the sources is a specific field of study called *fiqh*, which can be translated as 'jurisprudence'. Fiqh is the scientific method of deducing (new) rules on the basis of proofs from the Quran and Sunnah.<sup>31</sup> The Islamic scholar whose profession is to deduce laws is called a *faqih*, which can be translated as 'jurist.' These *fuqahā* (plural of faqih) use the Quran and Sunnah, but also have other sources for deduction: *ijmaa* (community consensus), *qiyas* (analogical reasoning), and some literature also mention '*urf* (custom) and *ijtihad* (independent reasoning or intellectual effort).<sup>32</sup> Rulings can be concrete or abstract and vary in different contexts; that's why it requires special scholarship to develop practical implementations of the sharia.

Sharia is a term that has broad and narrow definitions, and means different things depending on the range of Islamic scholars. But to sum up the above paragraphs; sharia basically means two things from an Islamic law viewpoint:

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<sup>27</sup> Glasse, 2008: 479

<sup>28</sup> Berger, 2006: 2

<sup>29</sup> Khadje, 2012: 7

<sup>30</sup> Kutty, 2010: 582

<sup>31</sup> Kadje, 2012: 7

<sup>32</sup> Kutty, 2010: 582

- 1) **Principle scriptures:** everything that was revealed to Prophet Muhammad (Quran) and his teachings (Sunnah)
- 2) **Fiqh:** laws that are deducted, composed, classified and designed by *fuqahā* in the last couple of centuries. It is the human effort to articulate divine laws.

The legal field of fiqh developed during the centuries after Prophet Muhammad. Especially the third and fourth generation after Prophet Muhammad created important scholars, which would be followed in the form of schools of thought from the period of the Abassid dynasty until now. The *fuqahā* each follow the scientific methods of one of the schools of thought (four main schools in Sunni branch of Islam and two in Shi'a Islam). Rules can differ per context, per school of thought (methodology) and per scholar. On top of that, with every new question, new answers and areas of legislation are developed. That is why sharia is not a fixed and uniform system but very diverse, pragmatic and flexible in the implementation.<sup>33</sup>

## 2.2 Marriage dissolution

In The Netherlands, an Islamic marriage is not legally recognized. It is a criminal offence for an imam to conduct an Islamic marriage for a couple that isn't married for the Dutch law. It is however allowed to marry Islamically after marriage in a civil ceremony took place. Islamic divorce is not regulated in The Netherlands, and therefore it is easier to sign a marriage contract than to opt for dissolution of that same contract.

According to Islamic teachings, it is easier for men to divorce than for women, because men are generally seen as the head of the household since they are (financially) responsible. Men can divorce their wives by a verbal denouncement, an extra-judicial divorce, which is called *talaq*. Women can ask their husband for a divorce, which is called *khol'*. Scholars can come to different conclusions via jurisprudence. In practice, this means for example that one legal school of thought the wife has no autonomous recourse to divorce, while according to another school of thought, she has multiple causes on which she can base her application for divorce.<sup>34</sup> According to most interpretations, a woman initiating a divorce (*khol'*) has to bring her case to a judge (*qadi*) in case her husband doesn't want to

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<sup>33</sup> Berger, 2007: 506

<sup>34</sup> Berger, 2006: 3

grant her a divorce. A *qadi* is a Muslim with neutral authority whose task it is to apply the law in specific cases, so in an Islamic country this would be a judge.<sup>35</sup> Since there are no Islamic judges with legal authority in The Netherlands, it might be a problem when women want to dissolve their marriage because there are not many places to turn to.<sup>36</sup>

To offer Muslim women a place to turn to for help, the question was raised by the NOS news whether a sharia council in The Netherlands, just like in London, would be a solution. Such sharia council can function as a *qadi*, but since such a council does not have any legal means, it can only make a difference when the Dutch Muslim community regards it as an authority. When such a council would be institutionalized in The Netherlands, no Muslim can be forced to cooperate in mediation. The only service such a council could provide is trying to convince refusing ex-husbands by speaking with them about their religious obligations. But this already takes place in the Muslim community, so a centralized sharia council would not make a big difference when it comes to the way imams can operate. But it might make a difference for women as there would be a central body to turn to, but that would be a question for further research.

#### **CONTRADICTIONS AND POSSIBILITIES**

As I explained in the above sections, sharia law is not a fixed system that can be implemented one on one to situations. Because next to the diversity of sharia law, there are some contradictions between sharia law and Dutch law that complexify the role of sharia in The Netherlands. These contradictions are often the object of critique and hostility.

Although a major part of the principles and rules of the classic sharia are not contradictory to Western law, certain principles differ significantly: the ontological difference between men and women and the legal difference between Muslims and non-Muslims, for example.<sup>37</sup> Another second point of critique of media and politics is often the fact that sharia law says things about – what the West calls – the ‘private’ sphere. Sharia’s objectives are not divided into public and private sphere, because sharia is not just a legal system but more a moral and ethical code. An important difference with Western law is therefore that sharia includes rulings on for example dietary, dress codes, sex segregation along with contract law.<sup>38</sup> This causes concern to some parties such as media or feminists as regards to divorce cases. It

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<sup>35</sup> Crane, 2010: 58

<sup>36</sup> Bakker, 2010: 61

<sup>37</sup> Berger, 2007: 506

<sup>38</sup> Berger, 2007: 506

happens that jurists want wives to prove that their husbands have abused them or denied them an essential right, such as refusing sexual needs or financial sustenance. To critics these matters seem too private to be taken into account in court.

Then there is a distinction that is essential to make in order to understand the contemporary application of sharia. This is the difference between the classic sharia and the modern practice of contemporary sharia. Whereas in the past, fiqh was the exclusive terrain of Islamic scholars, nowadays both national states and individual Muslims interpret sharia according to their own ideas and interests. Often countries that base (parts of) their legislation on sharia are known for the violation of human rights. This abuse confirms the picture of a system that is incompatible with modern (Western) principles and values.<sup>39</sup> There is nothing in sharia itself however that takes a stand against fundamental human rights, so these kinds of practices have more to do with hegemonic forces misusing sharia for their own benefit.

Just as governments interpret sharia in their own ways, people tend to justify their cultural habits and ideas through sharia. This happens in the case of patriarchal practices, and it would be untrue to say that sharia councils are free from this kind of patriarchy. A risk exists that a sharia council will be constituted by men only, who may interpret sharia laws in a patriarchal way. The preference of certain religious or cultural traditions over Islamic rights would seriously undermine the rights of women. Women could be disadvantaged through “unfair division of property, spousal support, child support, custody and access awards.”<sup>40</sup>

Although sharia doesn't stress the human freedoms as much as the Universal Declaration of Human Rights for example it can still be used as a source for defending human rights like gender equality and justice for ex-spouses. Sharia law is more concerned with obligations and moral duties of individuals than their freedoms, which means that sharia law can be used by imams (mediators in this case) to convince men of their moral obligation to cooperate on a divorce and end marital captivity. Sharia in this case is used as a slogan, so to speak, in the struggle for righteousness and justice. It serves as a tool to advise people, and to hold them to account for their behavior.

Then there is a potential within the sharia of rethinking laws in order to strive for more justice in different pragmatic contexts. The sharia has clear objectives that form the spirit of the law, which need

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<sup>39</sup> Berger, 2007: 506-507

<sup>40</sup> Bakht, 2004: 18

to be taken into account by scholars when translating the sharia law to current situations. The higher objectives of sharia (*maqasid*) are the preservation of life, property, family, religion, dignity and intellect.<sup>41</sup> This is relevant when it comes to relatively new challenges for Muslim women such as the difficulty of getting a religious divorce in Western societies, because in searching Islamic solutions for it, justice for both of the ex-spouses is most important since this touches upon the preservation of life, property, family and dignity. This might mean that the sharia rules on divorce may need adjustment to a Western context in order to meet these higher purposes and reach justice. The field of knowledge that works on the adjustment of sharia rules to Muslim minorities in the West is called *fiqh al-aqaliyat*. Well-known philosopher Tariq Ramadan states that the *fiqh al-aqaliyat* permits so much flexibility that Muslims do not even need a parallel legal system but can “abide by the common law”.<sup>42</sup>

Although sharia law contradicts Western law on certain points and despite the many challenges regarding cultural ideas on gender, there are many doors that can be opened to interpret and apply Islamic law within the context of the Dutch national law.

### *2.3 Sharia (debates) in Canada and The UK*

This section aims to give some background information on sharia councils in Canada and The United Kingdom, and some information on previous and contemporary sharia debates in The Netherlands. This information is essential in understanding the similarities in the debates when it comes to anti-Islam sentiments and the way these debates are framed in a gendered way.

#### **CANADA**

Canada doesn't know institutionalized sharia councils as recognized arbitration bodies. But at the end of 2003 the Islamic Institute of Civil Justice wanted to start an organization that would offer sharia-based arbitration of family cases in Ontario, Canada. Proponent Syed Mumtaz Ali claimed this as the beginning of a sharia court in Canada, and said “Muslims have the same right as Aboriginal nations to develop their

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<sup>41</sup> Kutty, 2010: 584

<sup>42</sup> Crane, 2010: 60

own legal system.”<sup>43</sup> This announcement found resistance from Canadian society and from people within the Muslim community, mainly for reasons related to gender oppression.<sup>44</sup>

The government approved the setting up of sharia courts, as long as they respected the national law, because Jewish and Roman Catholic courts were also permitted in Canada. Even though feminist politician Marion Boyd did research on the effect of sharia courts on women and affirmed the constitutional right to religious freedom and Islamic arbitration,<sup>45</sup> the feminist resistance was too strong and after one year all faith-based arbitration was suspended.<sup>46</sup> The main counter arguments from non-Muslims are summed up in an article by Eileen Toplansky:

“Given the second-class status of women under sharia law and the intimidation of women therein, it becomes rather clear that theirs is often not a voluntary decision. Furthermore, "the proceedings are not recorded, nor are there any searchable legal judgments. Nor is there any real right to appeal." Sharia law is absolute. Muslim tribunals seek "to impose their cultural values on Western society. (...)The fact that sharia law conflicts with many of the precepts of the Human Rights Act of 1998 makes it incompatible with Canadian law.”<sup>47</sup>

There was a group of Muslim women who were practicing Islam, but opposing the sharia court because of concerns about patriarchal forces since women were not consulted in the formation of the sharia court.<sup>48</sup> And another counter argument of feminist organizations was that Muslim women would be unable to choose for the freedom of Canadian law and be forced to subject themselves to the rulings of the Islamic court, due to pressure of their men, family and community. Other Muslim opponents fled from states like Iran, Afghanistan and Pakistan, which are countries that often (mis)use the sharia to oppress people, so these immigrants were afraid that the same sharia law that they fled from would apply again onto them in Canada.<sup>49</sup> Last but not least, secular humanist said that Islamic arbitration must be banned because it would conflict with the complete separation of church and state.<sup>50</sup>

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<sup>43</sup> Boyd, 2007: 466

<sup>44</sup> Boyd, 2007: 466

<sup>45</sup> Kutty, 2010: 566

<sup>46</sup> Den Tek, Expatica, 15 September 2009

<sup>47</sup> Toplansky , American Thinker, 8 August 2010

<sup>48</sup> Khan , The Milli Gazette, August 2004

<sup>49</sup> Boyd, 2007: 468

<sup>50</sup> Boyd, 2007: 468

The research of Anna C. Korteweg shows that the sharia debate of Canada in 2003 was about more than gender. Korteweg analyzed the representation of Muslim women's agency in this debate and came to the conclusion that the initial debate about legal principals of sharia and Western law altered into a debate about women's rights and in extent the Western culture versus the Islamic culture.<sup>51</sup> The depiction of Islam as gender oppressive was problematic according to Korteweg, because the notion of Muslim women's agency was solely described as resistance to Islamic teachings, men and culture that were seen as inherently oppressive and discriminative.<sup>52</sup> It positioned Muslims as racialized Others in a gendered way.<sup>53</sup> But a ban of all religious arbitration was even more problematic since Canada was a multicultural state in principle, but struggled with the protection vulnerable individuals within a religious minority group and consequently took a decision that was contra-multiculturalism.<sup>54</sup>

## THE UNITED KINGDOM

The United Kingdom has about 85 sharia councils, of which the oldest exists since 1982. Five of them are official arbitration institutes, and the most known is the Islamic Sharia Council in London. It deals with mainly matrimonial issues i.e. Muslim personal law, and some contract law, and handles 200-300 cases per month. Couples ask for mediation in order to make their marriage work, or ask for verdicts regarding the Islamic validity of their marriage or divorce.

Eighty percent of the Council's clients are women who request marriage dissolution (*khol'*) when their husbands refuse to grant them a divorce.<sup>55</sup> When the Council grants a divorce, it can only hope for the cooperation of the man, since the Council's verdicts have no legal status in The UK. The Council is not a court, but rather a mediation body.<sup>56</sup> The Council is however acknowledged by the Pakistani and Somali authorities, which means that women who were also married for Pakistani or Somali law are automatically divorced for that law.<sup>57</sup> About 20 Dutch women per year come to London to request a religious divorce, which means that the Sharia Council provides a solution or a way towards freedom for these specific women.

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<sup>51</sup> Korteweg, 2006: 50

<sup>52</sup> Korteweg, 2008: 438

<sup>53</sup> Korteweg, 2008: 449

<sup>54</sup> Boyd, 2007: 465

<sup>55</sup> <http://nos.nl/video/382730-nederland-moet-eigen-shariaraad-krijgen.html>

<sup>56</sup> [http://en.m.wikipedia.org/wiki/Islamic\\_Sharia\\_Council](http://en.m.wikipedia.org/wiki/Islamic_Sharia_Council)

<sup>57</sup> <http://www.islamic-sharia.org/>

In 2008, the Archbishop of Canterbury suggested that the already existing sharia councils would be formalized within the British legal system.<sup>58</sup> This led to a sensationalist media debate in The UK, according to Jemma Wilson.<sup>59</sup> The criticism consisted out of two main arguments; first, that Muslims living in the West were a threat to the very basis of Western civilization because of the assumed incompatibility of sharia and Western law. And second, that Muslim women would be oppressed and lose their autonomy when a sharia council would handle legal cases according to ‘inherently patriarchal’ Islamic law. They wouldn’t be free to make their own choices and be forced to follow the verdicts due to pressures from within the Muslim community.<sup>60</sup>

## *2.4 Dutch sharia debates*

### **STATUS OF SHARIA LAW IN THE NETHERLANDS**

There are no sharia councils in The Netherlands, or any other organized body of sharia experts. But as the Muslim community continues to establish itself in The Netherlands, it is likely that a set of Islamic laws, compatible and applicable to the Dutch context of Dutch Muslims, will develop.<sup>61</sup> However, in 2007 Maurits Berger stated that because of this diversity of people’s interpretations and the incomplete nature of sharia, we don’t know the facts and figures about the way Muslims in the Netherlands consider sharia and which ‘version’ of sharia will be used.

### **FOLLOWING THE CANADIAN AND BRITISH DEBATES**

After the 2003-2007 debate in Canada, a public debate about sharia followed in The Netherlands. Jurist Maurits Berger wrote some academic and newspaper articles about the subject in 2005, 2006 and 2007. In these articles Berger emphasized the diversity of the interpretation of sharia, the legal implications of sharia in The Netherlands, the difference between social and legal norms, and the fact that not many Muslims wish to change Dutch law in order to implement sharia law.<sup>62</sup>

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<sup>58</sup> Wilson, 2010: 46

<sup>59</sup> Wilson, 2010: 47

<sup>60</sup> Wilson, 2010: 46

<sup>61</sup> Kutty, 2010: 594

<sup>62</sup> Berger 2006 and 2007

Also after the 2008/2009 debate in The UK, the Dutch sharia debate was nourished and Dutch politicians were afraid 'sharia council' would be a synonym for gender inequality and that it would create a parallel legal system, containing elements contradictory to the principles of the Dutch law and order. Parliamentary questions were raised, such as: should The Netherlands allow a similar kind of sharia law as in The UK?<sup>63</sup> During this period, a couple of proponents and opponents of sharia law held the debate in the media about this question.

The most important parties represented in the media were Maurits Berger, Nahed Selim, politicians from the House of Representatives (Tweede Kamer) and the Radboud University of Nijmegen. The main arguments were centered on the binaries: implementation vs. banning and Islam vs. (women's) rights. A summary of Berger's (pro) and Selim's (contra) articles are typical for this debate in general. Berger said that there are no sharia courts in The Netherlands, but that it is also not forbidden because Islamic law in The Netherlands doesn't have the status of real jurisdiction. He also said the Islamic councils are bound to limits though, especially when it comes to marriage issues because a council's decision cannot violate individual rights.<sup>64</sup>

Selim countered Berger's article by stating that there is hypocrisy in The Netherlands because sharia law is very present in Dutch mosques and it is still allowed even though the European court declared sharia to be contradictory to democracy. She said that sharia manifested itself in The Netherlands via polygamous marriages in mosque's hidden chambers.<sup>65</sup> She further claimed that Islam is a misogynist ideology and discriminates in every aspect, contradictory to Judaism and Christianity. She mentioned examples of abuse in Muslim countries around polygamy, marriage, divorce, heritage, custody, alimentionation, child marriages and hostility against Western states.<sup>66</sup>

#### **RESEARCH RADBOUD UNIVERSITY**

In 2009, after members of the Dutch Parliament (among which Geert Wilders and Sietse Fritsma of the PVV, Party for Freedom) asked questions about the phenomenon of sharia councils in The UK and The Netherlands, Justice Minister Hirsch Ballin entrusted the Radboud University in Nijmegen to do research on the possible existence of sharia-based mediation in The Netherlands. The main question was: does mediation or any other form of interpretation of sharia law exist in The Netherlands, to what extent and

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<sup>63</sup> Den Tek, Expatica, 15 September 2009

<sup>64</sup> Berger, Het NRC Handelsblad, 8 July 2009

<sup>65</sup> Selim, Het NRC Handelsblad, 8 July 2009

<sup>66</sup> Selim, Het NRC Handelsblad, 8 July 2009

related to which questions?<sup>67</sup> The results hereof were presented in their report “Sharia in The Netherlands” in 2010.

The Radboud University came to the conclusion that sharia law has the character of mediation in The Netherlands, and that it is not an undermining of Dutch national law, but rather has an added value as an alternative for proceeding in court. They found that there are no organized sharia bodies in The Netherlands,<sup>68</sup> but imams of different mosques do mediate individually based on sharia law in the form of mediation.<sup>69</sup>

“The practice of dispute settlement based on Sharia Netherlands has not the character of arbitration. (...) If a comparison with a legal form can be made, mediation is still the most nearby. (...) It is important that this solution is actually acceptable for parties, because compliance is not legally enforceable.”<sup>70</sup>

In public debate, the term ‘sharia court’ is sometimes used for negative imaging,<sup>71</sup> which according to Radboud’s research is inaccurate for the character of sharia-based mediation in family and business matters. It is also inaccurate to speak of ‘sharia courts’ because an imam’s decision in sharia mediation isn’t binding, while Dutch legal courts have the power to impose decisions.<sup>72</sup> The sharia is used to search for solutions and as an argument to stimulate good conduct with the involved parties.<sup>73</sup> Mediation is the most common alternative in family law context, and is considered advantageous compared to settling the dispute in court. That is because the involved parties drafted an agreement themselves with the help of a neutral mediator.<sup>74</sup>

In the (international) sharia debate however, there was much feminist critique on sharia-based mediation, precisely because the government cannot safeguard a fair trial. The voluntary character of participation in Islamic cases is not actual voluntary, in case of women who are forced into solutions that benefit only men.<sup>75</sup> Concerning the question what effects sharia-based mediation has on the position of Muslim women, the Radboud University answers that imams and board members of different mosques

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<sup>67</sup> Bakker, 2010: 2

<sup>68</sup> Bakker, 2010: 103

<sup>69</sup> Bakker, 2010: 104

<sup>70</sup> Bakker, 2010: 104

<sup>71</sup> Kutty, 2010: 587

<sup>72</sup> Kutty, 2010: 588

<sup>73</sup> Bakker, 2010: 83

<sup>74</sup> Bakht, 2004: 2

<sup>75</sup> Bakht, 2004: 3

say that the sharia can play an important role in protecting the weak. According to them, the sharia works as an authority to which imams appeal to give a religious judgment that benefits weaker parties, such as women. For example, when a father wants to force his daughter to marry someone, the imam can disapprove of this marriage and convince the father to act differently.<sup>76</sup>

The Radboud report shows that Muslims mentioned different reasons to opt for sharia-based mediation: people want to be sure that their solution is sharia-compliant; a bigger trust and familiarity with own solution finding methods; keeping problems private; and the necessity to get the solution accepted in countries of origin.<sup>77</sup> But in some cases people just choose to go to an imam instead of a court, because they expect sharia mediation to benefit their self-interest, and are not searching necessarily for an Islamic (just) solution.<sup>78</sup> This insider information is important in understanding the role of sharia mediation as an everyday practice. Despite this, these conclusions weren't discussed or included in the media, such as in the program RONDON 10, which means that the media debate lacked basic insider information.<sup>79</sup>

#### **CONTEXT 2012 DEBATE**

In 2012 the sharia discussion regained attention, and this time in a specifically gendered manner: in February the visit of the British imam Haitham al-Haddad to The Netherlands ended in debates about women's rights, and from February 2012 on Femmes for Freedom began campaigning for solutions on marital captivity. In this section I will discuss that context in which the sharia council debate arose.

One of the participants in the sharia debate of 2012 was Haitham al-Haddad, a member of the Islamic Sharia Council in London. The media presented him as the apostle of pleading for a sharia council in The Netherlands, but (chrono)logically seen he was approached by the NOS news to give his opinion on the situation of the Dutch Islamic divorce cases.<sup>80</sup> It wasn't the first time Al-Haddad was interviewed as a sharia-expert, because debate program RONDON 10 interviewed him about sharia law during his stay in The Netherlands in 2010, so some people may already have heard of him before.<sup>81</sup>

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<sup>76</sup> Bakker, 2010: 82

<sup>77</sup> Bakker, 2010: 102

<sup>78</sup> Bakker, 2010: 83

<sup>79</sup> RONDON 10, 24 April 2010

<sup>80</sup> Wildeman, Wij Blijven Hier, 30 August 2012

<sup>81</sup> RONDON 10, 24 April 2010

Al-Haddad wasn't new to the bigger audience either, because his plan to visit The Netherlands in Februari 2012 caused a media controversy. On 15 February 2012, the majority of the House of Representatives – parties PVV, SGP, VVD, CDA and ChristenUnie, of which Joël Voordewind was the representative – wanted to prevent him from entering our country because he made discriminative statements about Jews, women, homosexuals and apostates. But the next day the Minister of Security and Justice Ivo Opstelten said Al-Haddad's objectionable statements weren't ground enough to deny him access.<sup>82</sup> Al-Haddad was invited to the debate center De Balie and the talkshow De Halve Maan, where he was asked about his opinion on women's rights, because he refused to sit around the table with women.

Femmes for Freedom chairwoman – as introduced in the Introduction chapter of this thesis – is Shirin Musa, law student and practicing Muslima who experienced marital captivity in her own life. Newspapers NRC Handelsblad and Vrij Nederland, both of 5 March 2011, interviewed her about her own law case involving her ex-husband. Her case was heard before a civil court and she was successfully able to enforce her Islamic divorce by means of a penalty threat. In these two articles a possible Dutch sharia council was not discussed yet, but the articles addressed specific problems at the intersection of women, Islam, cultural practices, sexuality and policy.<sup>83</sup>

On 21 May 2012 Musa was invited to speak at the talk show KNEVEL & VAN DEN BRINK about marital captivity. She states that 'everybody is familiar with the problem: women's shelters, advocacy, social work, but that nobody has a solution.'<sup>84</sup> In her opinion, the government should solve the problem by broaden the definition of 'forced marriages' by law, so that it becomes easier to force these men to cooperate on their religious divorce. In October 2012 this bill was indeed successfully adopted.<sup>85</sup> In this talk show Musa doesn't explicitly speak out against sharia councils yet: she did that only when their new campaign started, from February 2012 on. Many media interviews and articles from that period can be read on their website.<sup>86</sup>

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<sup>82</sup> Posthumus, Het NRC Handelsblad, 16 February 2012

<sup>83</sup> NRC Handelsblad and Vrij Nederland, 5 March 2011

<sup>84</sup> EO, KNEVEL & VAN DEN BRINK 21 May 2011

<sup>85</sup> <http://www.femmesforfreedom.com/english/>

<sup>86</sup> <http://www.femmesforfreedom.com/media/>

### 3 Methodology

The Dutch sharia debate is part of a broader public debate about Muslim minorities in Western societies that is held since a couple of decades. For example, in The Netherlands there was the 'national minorities' debate in 1991, the 'multicultural drama' debate in 2000,<sup>87</sup> and a headscarf debate in 2004.<sup>88</sup> These debates were highly mediated and consisted mainly of newspaper articles and television broadcasts, just like the sharia debate in 2012. These debates consist of (spoken) language, images and texts that are grouped in certain statements. They provide a dominant language for discussing a particular topic, which is called a discourse.<sup>89</sup>

Representations of opinions in the media depend on who has access and who is excluded from a particular discourse. A discourse reproduces structural inequalities such as political, cultural, class, ethnic, racial and gender inequality.<sup>90</sup> Therefore a discourse always serves the agenda of certain groups in society more than other groups. The reproduction of inequalities can seem quite natural and invisible, because of the manipulative use of language. The strategy of using particular language that serves certain agendas is called 'framing'. By analyzing how stories are framed, strategies of dominance and resistance become visible.<sup>91</sup>

In analyzing how the sharia debate was constructed in 2012, it is important to look at the language that was used to frame the story. The conventional method to analyze framing is critical discourse analysis, which is a way to look at the societal and historical context of statements. It attempts to reveal underlying ideologies by focusing on power relations in society and the way these are reproduced and resisted by spokespeople or journalists.<sup>92</sup> In this chapter I will explain in detail what the concept of framing and the method of critical discourse analysis is and how I will make use of it in analyzing the Dutch sharia debate in 2012.

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<sup>87</sup> Prins, 2010

<sup>88</sup> Bracke, 2004: 15

<sup>89</sup> Hall, 1997: 185

<sup>90</sup> Van Dijk, 1993: 250

<sup>91</sup> Van Dijk, 1993: 266

<sup>92</sup> Van Dijk, 1993: 266

### 3.1 Theory: Framing

#### DISCOURSE ANALYSIS

The aim of this research is to analyze the media discourse on the idea to institutionalize a sharia council in The Netherlands as a solution to marital captivity and to analyze the framing of the relationship between Islam and gender (oppression) in this discourse. Therefore, I will perform a discourse analysis. There is not just one single definition of the term 'discourse'. It can refer to a series of texts on a particular topic or to all spoken and written language during a particular period of time.

Michel Foucault, who introduced the term 'discourse' into critical studies and philosophy, describes discourse as a social practice; discourse is the sum of interactions within a certain domain based on statements.<sup>93</sup> Social relations affect language, but language also has material effects on the lives of people. Social relations are shaped by the way relations are being discussed and the meanings given to them.<sup>94</sup>

A discourse doesn't reflect an objective reality, but reality is shaped by discourse. According to Foucault, there is not a pure reality or truth, but discourse conceals a truth about society. Power relations are expressed and constructed through language and the normalization of certain opinions. Discourse only gives space to certain truths by preferring some knowledges (stories/statements) over other knowledges. Some individual people or members of a group are being excluded because their opinion is not heard. Dominant opinions take a lead and suppress other opinions, and fade away nuances and complexities. This makes discourse important to analyze when theorizing forms of oppression.<sup>95</sup>

Foucault sees knowledge not as pure meaning, but as something that is always related to power. Because certain knowledge benefits the status quo or the resistance thereof, all knowledge is strategic.<sup>96</sup> Some discourses are more dominant than others, and the dominant ones shape everyday realities.<sup>97</sup> The knowledge that is produced within a discourse on sharia law for example, is rooted in a particular 'secular Western' knowledge which has a history and is quite problematic. In this discourse there is little room for opinions that go against the dominant 'secular Western' vision. This 'secular Western' knowledge has material effects: statements about Islam, about the treatment of women by

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<sup>93</sup> Outmany, 2009: 11

<sup>94</sup> Prins, 2004: 16

<sup>95</sup> Outmany, 2009: 11

<sup>96</sup> Hall, 1997: 185

<sup>97</sup> Prins, 2010

Muslim men, and about the needs of Muslim women, can support the implementation of certain policy that affects the possibilities of organized sharia-based mediation.

## FRAMING

To understand the way in which language constructs our thinking and feelings towards a certain topic, the concept of framing is very useful. In a mediated society, the daily news on television and newspapers largely contributes to citizens' construction of meaning and opinion. Even though media do not determine *what to think*, they do inspire *what to think about*. Whether it is informative articles, opinion pieces or columns, they bring certain issues to people's attention, while other issues remain at the background or even taboo to speak about.<sup>98</sup>

When people are confronted with for example sharia law through the media, then they will most likely form an opinion about it and discuss it. This is called 'agenda setting' which means that media can put things on the political and societal agenda to be discussed in the public sphere. Next to this, media can also influence to a certain extent the way people perceive of an issue, by choosing a mode of representation. This is called 'priming'.<sup>99</sup>

Another important aspect of this media theory next to 'priming' is the concept of 'framing.' It affects *how to think about*, because choices in language color the message. Journalists convey messages along fixed interpretation schemes that highlight clear opinions, dichotomies and conflicts. This way they can reduce complex realities to newsworthy stories.<sup>100</sup> Framing also makes it easier for journalists to create a hype: a news story that is repeated over and over again in different media without concrete events or developments prior to it.<sup>101</sup>

To demonstrate the different ways stories can give indications for certain interpretations, I will give an example on the topic of Islamic divorce. When the words 'religious hostage' are used it can evoke a different perspective on or attitude towards the phenomenon than 'marital captivity'. The first words create a conceptual frame in which the religion is the reason for hostage – a word to describe the captivity of someone as a pressure tool in a war or power struggle. The second set of words construct a frame in which the problem is the marriage in which someone is kept unwillingly. Journalists often

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<sup>98</sup> Aadriaansens, 2003: 34

<sup>99</sup> De Boer, 2004: 185

<sup>100</sup> Aadriaansens, 2003: 34

<sup>101</sup> Aadriaansens, 2003: 35

deliberately chose between such formulations, depending on their main argument and what kind of agenda they have or their expected audience has.

Stories are not only framed through vocabulary, but also through images, argumentation, association and statements. News presenters or journalists have the ability to fill in certain grey areas in which common definitions are taken for granted, conclusions are drawn from their own perspectives and information is selected and phrased.<sup>102</sup> Words like 'sinners', 'orthodox', 'progressive' and 'conservative' can be attached to the different categories in this discussion like Muslim women, Muslim men, imams, feminists and politicians. This way the story about who is in need of salvation and who is the savior can be easily told, and a new frame is created. With such a frame the attention of people will be concentrated on the messages that the journalist wants to convey.<sup>103</sup> Often these frames give stage to the more powerful speaking positions in society, whereby marginalized voices cannot be heard. Sometimes marginalized people speak, but in this case they can still be used for dominant interpretations through editing or framing.

### *3.2 Method: Critical discourse analysis*

To analyze the different frames of the articles in the sharia debate, I will make use of the method critical discourse analysis. It is a useful method to critically examine rhetoric and textual techniques and make assumptions behind statements explicit.<sup>104</sup> Critical discourse analysis is a field of inquiry that is based on the Frankfurter Schule's critical theory and critical linguistics. With this method it is possible to analyze power relations involved in a discourse, because it focuses not only on the content of texts but also on the sociopolitical context.<sup>105</sup> I will look at the main statements in the articles to categorize the arguments and problematize social opinions that may be taken for granted.

Critical discourse analysis is not bound to one particular discipline, and doesn't know fixed methodological rules and order.<sup>106</sup> Therefore I will explain how I will analyze the videos and articles about the idea of an institutionalized sharia council in The Netherlands. When analyzing the message of a journalist or the different parties that are represented in a news report, I will look at both words and

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<sup>102</sup> Lakoff & Johnson, 1980: 53

<sup>103</sup> Lakoff & Johnson, 1980: 53

<sup>104</sup> Van Dijk, 1993: 254

<sup>105</sup> Midden, 2010: 123

<sup>106</sup> Van Dijk, 1993: 265

images – the content– and at the power structures informing the different speaking positions – the context. These speaking positions of different participants can be analyzed by asking which voices are being heard or excluded from the debate.<sup>107</sup>

After introducing the newspaper, title, writer and images of the article, I will ask the following analysis questions:

- Who are the main spokespeople? How often are these people quoted and in what context?<sup>108</sup>
- What topics are being covered and which are being left out?
- What is the main argument and how is this argued?
- What is considered a problem and what a solution? Can it be classified as negative or positive towards a sharia council?

Along the answers to these questions I will make a scheme of all the articles to gain more insight into who held the debate, in what way it was held and what the main arguments were. In the first case study chapter I will analyze the representation of Muslim women in the debate in the first sense of the word: did they participate in the debate or were they just being talked about? Mainly the first analysis question is important in that case, because dominant speakers can overrule other voices by their access to media, choice of topic or rhetoric style.<sup>109</sup>

For example, when the position of a speaker is white, male, non-Muslim and professor, it constructs a different meaning than when it is colored, female, Muslim and a journalist. A certain position can entitle a person to represent legal bodies or represent ‘liberated Muslim women’. Statements of spokespersons with these positions are both differently judged by the audience. Some positions represent dominant opinions and may therefore not be questioned by the audience, whether out of ignorance or for hegemonic purposes. Speaking positions are thus related to power structures and interests of the group he or she represents.<sup>110</sup>

To answer the second research question I will analyze the representation of Muslim women in another sense of the word: in which way are they portrayed in relation to their gender, religion and sharia councils? Topics, arguments and associations tell a lot about which underlying norms and values and ideologies are at stake in debates, such as the meaning of free speech for democratic society in the

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<sup>107</sup> Midden, 2010: 123

<sup>108</sup> Van Dijk, 1993: 272

<sup>109</sup> Van Dijk, 1993: 279

<sup>110</sup> Van Dijk, 1993: 272

debate on blasphemy.<sup>111</sup> These ideologies are served by the journalists' choices for particular frames. The underlying assumptions are therefore recognizable from the way the article is framed.

Mainly the last three analysis questions enables the classifying of the articles as positive or negative towards the institutionalization of a sharia council, and to illustrate how they use certain frames. To distinguish often-used frames I made use of existing literature on framing of Islam and gender in Western media. I extracted four frames from this literature, which I will discuss in the following section. I chose to categorize the articles in this fashion, to analyze which assumptions are made about Muslim women, and whether the framing of this sharia debate corresponds with previous Islam debates. I don't attempt to make a comparative analysis, but if the frames apply to the sharia debate of 2012, it may be concluded that the same discourses are still dominant.

### *3.3 Framing Islam & Gender*

In preparation to my analysis I performed a small literature study on national and international academic articles about framing of news about Islam and Muslims by Western media. Most researches I found were done within the discipline of law, communication studies, feminist studies and political philosophy. These researches focus on the way Muslim women are represented, and the role of gender in the *othering* of Islam in a political context. The idea of the clash of civilizations, i.e. the clash between Islam and the West, is reinforced by political discussions on the integration of Muslims, multicultural policy and women's rights. The tension between multiculturalism and gender relations has been high on the Dutch political agenda.<sup>112</sup>

One of the articles of my literature study, "Feminism versus Multiculturalism" by Leti Volpp, analyses where this political othering of Islam on the basis of gender norms comes from.<sup>113</sup> The binary logic of feminism versus multiculturalism got attention in the academic world when Susan Moller Okin published her article "Is Multiculturalism bad for Women?" in 1999. Okin's observation was that minorities were always expected to assimilate, but because that was considered oppressive since a few decades, the new policy 'multiculturalism' became dominant.<sup>114</sup> Multiculturalism is a policy that

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<sup>111</sup> Van Dijk, 1993: 272-273

<sup>112</sup> Midden, 2010: 231

<sup>113</sup> Volpp, 2001

<sup>114</sup> Volpp, 2001: 1182

recognizes minority cultures within a society and aims to protect minority group rights.<sup>115</sup> The protection of these minorities raised a dilemma according to Okin: “What should be done when claims of minority cultures or religions contradict the norm of gender equality that is at least formally endorsed by liberal states?”<sup>116</sup>

This question and Okin’s case studies on head scarves, polygamous marriages and female clitoridectomy suggests that most minority cultures are patriarchal and want to control their women, and that gender subordination is specifically integral to Islam and Muslim practice.<sup>117</sup> Although she recognized that Western cultures are also discriminatory towards women, Western women are at least protected by legally given equal rights and opportunities by the secular liberal democratic states.<sup>118</sup> She concludes that since minority cultures are patriarchal, there is a big chance to a conflict between feminists – who defend women’s rights – and minority group rights. Okin argues that if we agree that women should not be oppressed, then we should not accept oppressive cultures. This is or has been a clash between feminism and multiculturalism: we should not accept group rights that give space to gender oppressive practices.<sup>119</sup>

Critics say that Okin has an ahistorical and static vision of cultures, because she doesn’t acknowledge in her research that there can be many different ways of practices and interpretations within one group. A group is never all-conservative, but progressive forces within a group change habits and norms from the inside.<sup>120</sup> Volpp says that theorists like Okin blame the cultural background of immigrant men that invoke gender-based violence, while at the same time culture is not used to explain violent treatment of Western women, because white people are not viewed of as having a culture, let alone that this culture would dictate a reasoning white person.<sup>121</sup>

To analyze how these notions about *other* cultures are reproduced by media, I looked at literature about theories of framing. Some theorists state that the centering on the unequal treatment of women in Islam is something that happens in many of the sharia debates.<sup>122</sup> This is where the first frame becomes visible:

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<sup>115</sup> Prins, 2010: 20

<sup>116</sup> Volpp: 1182

<sup>117</sup> Volpp: 1182

<sup>118</sup> Volpp, 2001: 1185

<sup>119</sup> Midden, 2010: 11

<sup>120</sup> Midden, 2010: 12

<sup>121</sup> Volpp, 2001: 1187-1189

<sup>122</sup> Korteweg, 2008: 450

## WESTERN COLONIAL FEMINISM

### 1. Vulnerable victim frame

Wasif Shadid analyzed the framing of Muslims in Western media and found that media reports mainly highlight cases in which Muslim men were discriminative or violent against Muslim women and the reports claim Islam to be the reason for their defiant behavior.<sup>123</sup> These kinds of reports construct Muslim women as a victim of sexist discrimination and particularly vulnerable to gender-based violence. This disempowered and victimized representation of Muslim women is not new in the history of media: it is canonized in Western literary traditions since a long period, and it continues to be reproduced.<sup>124</sup>

Sherene Razack did research on the politics of representation of Muslim women in the Canadian sharia debate. She states that the image of the emancipated woman, which the Canadian feminists promote as a universal image, is in fact the liberal autonomous product of individualistic modernity. She explains how Muslim women are being othered into women that are not modern and do not have the freedom to make their own choices, because of patriarchal and conservative forces within the Muslim community. Especially in the Canadian sharia debate, feminists (both Muslim and non-Muslim) thought along the secular/religious divide that 'marked the difference between the modern, enlightened West, and tribal, religious Muslims. She further states that this distinction – although unconstructive – will continue to be present in any projects that are initiated to improve situations of Muslim women.<sup>125</sup>

When Muslim women are seen as particularly vulnerable because of their belonging to the 'inherently sexist' religion of Islam, this discourse suggests a dilemma between their religion and their secular rights as women.<sup>126</sup> Either they stay in their iron cage of Islam, or they resist Islamic law in order to become a free woman. This binary opposition is based on a taken-for-granted definition of women's rights, defined by one group for the other group.<sup>127</sup> If freedom and resistance is defined in such a limited way, 'freedom' could turn into an instrument for the oppression of the minorities.<sup>128</sup>

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<sup>123</sup> Shadid, 2005: 335

<sup>124</sup> Zine, 2002: 3

<sup>125</sup> Razack, 2004: 1

<sup>126</sup> Shehada, 2001: 246

<sup>127</sup> Shehada, 2001: 246

<sup>128</sup> Midden, 2010: 139

## 2. Rescue frame

According to the rescue narrative Muslim women are trapped in this position and cannot escape from it, unless they get assistance from outside Islam and are being saved from their men and their religion. Non-Muslim women are portrayed as being equal to men, as having full freedom and legal protection.<sup>129</sup> Therefore they need to liberate Muslim women from their oppressive men, culture and religion. This is what Shehada calls the 'rescue narrative', which is one of the main Western discourses when it comes to feminism, the Other and the Self.<sup>130</sup>

### Colonial feminism

Baukje Prins did research on Dutch discourses on Islam and integration, and explains how the rescue narrative was constructed during the colonial period and is still very present in Dutch discourse.



The contemporary Western discourse on Muslim women has its roots in the 19<sup>th</sup> century feminism discourse that arose in Britain's colonial time in Egypt. This discourse was used to portray Eastern women as backward and dependent, in order to prove the inferiority and uncivilized character of Eastern culture.<sup>131</sup> At the same time, ideas and gains of the British women's movement were used to stress the superiority of British society, and with that their colonial power.

The rhetoric of the colonizers was based on the idea that all men outside the civilized West oppress women, so the West needed to oppress these countries in order to save the women. This legitimized the oppression of colonized countries by the West. This particular discourse can be called *colonial feminism*, according to Leila

<sup>129</sup> Shehada, 2001: 243

<sup>130</sup> Shehada, 2001: 246

<sup>131</sup> Prins, 2004: 27

Ahmed..<sup>132</sup> Gayatri Spivak (1999) summarized this logic with: “White men rescue brown women from brown men.” Often ‘white men’ can also be replaced by ‘white women or feminists’.

The Dutch sharia debate is not situated abroad but in The Netherlands, therefore this logic is not used in this particular debate to justify colonization. It is however used – for example by the political right – as a reason why white cultures and brown cultures cannot mix: the way brown men treat their women is incompatible with the way white men treat their women. The different positions of women are one of the reasons (or effects) of the ‘clash of civilizations’.<sup>133</sup> The Western citizen is ‘abstracted, homogenized, ‘degendered’ and universalized,’ whereas Muslims are portrayed as ‘non-universal, particular and different.’<sup>134</sup> The sharia debate is framed this way in the case of arguments like ‘Muslim women need a sharia council to be saved from their ex-husbands’ or ‘Muslim women need to be protected against sharia.’

## NEO-REALIST DISCOURSE

### 3. Incompatibility frame

The ‘clash of civilizations’ is a way of talking about Western culture and non-Western culture as incompatible in the sense of politics, integration and religion. Researcher Jennifer van Genderen explains that this frame focusses solely on differences between the Islamic and Western values, and the impossibility to unite them. She called this mode of representation the ‘conflict frame’.<sup>135</sup> Often repeated statements within this frame according to Sherene Razack are the argument that Muslims are ‘tribal and stuck in modernity, without commitment to human rights, women’s rights or democracy.’<sup>136</sup> Muslim men are presumably the only ones to practice domestic violence and therefore violating human rights. Nahda Shehada explains that the presence of Muslims and their ‘Islamic law’ is therefore perceived as a threat to Western democracy.<sup>137</sup> This is ‘proved’ by media by reporting cases of violence of Muslim men against women.

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<sup>132</sup> Ahmed, 1992: 151

<sup>133</sup> Ahmed, 1992: 154-155

<sup>134</sup> Shehada, 2001: 243

<sup>135</sup> Van Genderen, 2011: 9

<sup>136</sup> Razack, 2004: 130

<sup>137</sup> Shehada, 2001: 243

According to Razack the constituting of the Other on the basis of their (mis)treatment of women, lays ground for Western societies to constitute the Self as universal (read: white), gender equal and modern. The Self has not only to rescue Muslim women but also defend its nation against 'foreign undeveloped Others who have come uninvited to its territory.' The defense mechanisms are mainly surveillance and stigmatizing.<sup>138</sup>

One of the ways the Islam is stigmatized is through framing it as a threat to society in general and women in particular. Shadid found that publications about the multicultural society are mainly based on anecdotes and emotional arguments instead of formal and solid arguments.<sup>139</sup> They are dominated by four issues that decline the quality of the debate: lack of knowledge, fear, rhetoric and demagogy.<sup>140</sup> Ruard Ganzevoort claims that specifically Islam is framed with a focus on fear, whereas for example the anti-Catholic frame plays more on anger.<sup>141</sup> The emotion of fear makes it easier for journalists to write statements about women's oppression in Islam, because it frames Islam as a threat to Dutch society.

This frame of fear lays the basis for the Dutch sharia debate: sharia in general and a sharia council in particular is said to be a threat to Dutch society and women. I would like to call this frame the 'incompatibility frame' because 'fear' is just one of the rhetoric styles that are used to make claims about the incompatibility of Islam and Western civilization.

Since the last decade, the over-simplistic representation of Muslims as the Other was supported not only by the content but also the style of the debate; the critique on Islam was phrased in more harsh words than before. Politician Pim Fortuyn for example called the Islam a 'backward culture' in the newspaper *Volkskrant*, and columnist Afshin Ellian used the word 'Islamofascism' in newspaper *Het NRC Handelsblad* to describe a political Islam as a totalitarian movement that is incomparable to normal tyranny.<sup>142</sup>

This rhetoric style has its roots in the end of the 1980s; a new discourse arose in The Netherlands in which people spoke about cultural minorities in an intolerant and racist way, more openly and easily than before. Politician Frits Bolkestein was one of the first to speak in this new way and his racist

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<sup>138</sup> Razack, 2004: 157

<sup>139</sup> Shadid, 2009: 9

<sup>140</sup> Shadid, 2009: 9

<sup>141</sup> Ganzevoort, 2012: 97

<sup>142</sup> Van Genderen, 2011: 9

statements were justified by statements as ‘breaking taboos’ and ‘being straightforward’ and ‘get rid of political correctness’.<sup>143</sup>

Baukje Prins called this the ‘neo-realistic’ discourse.<sup>144</sup> This discourse defended European civilization and its core beliefs like the ‘universal’ values of freedom of speech, non-discrimination and the separation of church and state. This discourse also claimed that The Netherlands is the direct opposite of the Islamic world in which these values are not honored because they lack the Enlightenment period. The neo-realistic discourse showed Muslims very ‘clearly’ that they couldn’t influence Western liberalist values with their “backward” way of thinking.<sup>145</sup>

## MULTICULTURALISM

### 4. Multiculturalist frame:

Multiculturalism is a normative response to the existence of different cultures in a society, and stands for the protection of group rights of minority groups and welcoming these groups.<sup>146</sup> Multiculturalism is an ideology that believes equality can only be reached when cultural differences between groups are acknowledged and when policy is adjusted to the different needs of these groups.<sup>147</sup>

Framing the sharia debate in a multicultural way means to emphasize respect for group rights and for cultural difference. Islam and gender equality are not framed as problematic, or at least not as more problematic than other religions/cultures. This means that multiculturalist don’t see sharia councils as a means for Muslim men to place more restrictions on women, but just as a means to enhance Muslim’s integration and participation in society like any other group. That’s why multiculturalists use arguments in this debate like “Muslims don’t have a monopoly on discriminating women” and “we shouldn’t deny Muslims a group right that we allow for Christians and Jews”.

There are however different types of multiculturalism and this nuance is important to emphasize because it shows the underlying thoughts of the articles using this frame. There are four types of multiculturalism: conservative, liberal, left-liberal and critical multiculturalism.<sup>148</sup> The first two types

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<sup>143</sup> Prins, 2004: 4

<sup>144</sup> Prins, 2004: 4

<sup>145</sup> Outmany, 2009: 34

<sup>146</sup> Midden, 2010: 55-56

<sup>147</sup> Shadid, 2009: 4

<sup>148</sup> Midden, 2010: 58

believe in emphasizing equality (sameness) and similarities between cultures. However, critics say it is problematic that these types still privilege majority culture and see other cultures as an add-on.<sup>149</sup> Left-liberal multiculturalism acknowledges cultural differences, but also believes this is the reason behind different behaviors, values and practices: it essentializes and exoticizes cultural backgrounds.<sup>150</sup>

This means that some multiculturalists in the sharia debate may state that Muslim women *are* more vulnerable to oppression and are in need of rescue, along the lines of the first two frames. But they respect these differences between Islamic and Western cultures and look for ‘custom-made’ solutions. This way, some multiculturalists frame the relationship between Islam and gender equality as a problematic one, but think a sharia council would be a good solution for Muslim women’s problems.

Peter McLaren criticizes these first three types for not achieving social transformations, and suggested a fourth type; critical multiculturalism.<sup>151</sup> It sees diversity as a means to strive for social justice, instead of an end goal. He sees difference and identity as products of history, culture, power and ideology instead of essentializing it.<sup>152</sup> An example of this view on multiculturalism is the standpoint of Eva Midden, who performed research on the complex relationship between the concepts of multiculturalism and feminism and the discourses on these terms. Midden developed a more inclusive and nuanced definition of this relationship and argues that “gender equality is often misused in Islamophobic and anti-migration discussions, which also harms the position of minority women.”<sup>153</sup> This academic standpoint however, is most of the time lacking from the media discussions on Islam and women’s rights. I didn’t find the critical multiculturalist standpoint in the study results of media analyses on Western media debates, so in the 5<sup>th</sup> chapter of this thesis I will explore which types of multiculturalist framing are used in the 2012 sharia debate.

### 3.4 Data

To introduce the sharia council debate and the portrayal of Muslim women in it, I will briefly discuss the related debate about marital captivity in the first analysis chapter. Then I will analyze two news broadcasts and a dozen newspaper articles from the period June-August 2012. I will not compare

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<sup>149</sup> Midden: 2010: 59

<sup>150</sup> Midden: 2010: 60

<sup>151</sup> Midden: 2010: 60

<sup>152</sup> Midden: 2010: 61

<sup>153</sup> Midden, 2010: 2

different newspapers for example, but I will center on one single topic: the debate about the idea of the institutionalization of a sharia council in The Netherlands as a solution to marital captivity. I chose to focus on the Dutch sharia debate, because I have most affinity with the Dutch context, and also because the Dutch debate hasn't been analyzed so thoroughly, as the sharia debates in the United Kingdom and Canada. I will focus on the debate as represented in public mainstream media, and not for example dominant discourses in the parliament, legal world, Islamic organizations or academic world because these can differ a lot from the media debate so that would require a bigger research.

Most of the articles are opinions pieces or columns, and only a couple of them are news reports. I limited my data to articles that are readable online, and left out the ones that are only available in printed version. I found the articles by searching on the internet with terms like "sharia-raad" and "sharia Nederland" or by typing in names of participants like Maurits Berger or Femmes for Freedom. I also found some articles because journalists and columnists responded to each other's articles, whereby they placed hyperlinks as a reference. This chain reaction of articles indicate that the articles don't describe actual events or developments, as normally the case in news, but that they are mainly reactions to statements and imagined scenarios, as more common in opinion pieces.

The first article I found is the last article chronologically (by Nora Kasrioui and Nadia Martosatimna-Laiti) and this is the article with which my interest for this topic started. I found the article in my Facebook news feed, and without this article I wouldn't have known how interesting this debate was from a gender perspective. The 2012 sharia debate has been a short media hype that wasn't very memorable in the light of all news reports, but nevertheless is very characteristic of the Dutch discourse on Islam and the integration of Muslims. Like Ann Laura Stoler explains in her book *Along the Archival Grain: a 'minor history should not be mistaken for a trivial one.'*<sup>154</sup> A three-month discussion, however short, shows certain categories by which statements and related speaking positions are organized. In *The Archaeology of Knowledge* Foucault says the following:

"What we try to examine is the incision that it makes, the irreducible – and very often tiny – emergence. However banal it may be, however unimportant its consequences may appear to be, however quickly it may be forgotten after its appearance, however little heard or badly

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<sup>154</sup> Stoler, 2009: 7

deciphered we may suppose it to be, a statement is always an event that neither the language nor the meaning can quite exhaust.”<sup>155</sup>

In the first analysis chapter I will briefly introduce these articles about marital captivity (not the actual case study) preceding the sharia debate. These are two interviews with Shirin Musa about her personal experience with marital captivity: Vrij Nederland by Margalith Kleijwegt (5 maart 2011) and Het NRC Handelsblad by Sheila Kamerman (5 maart 2011).

My case study consists of two analysis chapters in which I will analyze the following newspaper articles, television broadcasts, opinion pieces, columns and blogs. I chose to categorize them roughly into positive about sharia councils (v), negative about sharia councils (-) and containing different voices and opinions (o), for the sake of clarity in this chapter.

- Video reports
  - NOS Journaal 20:00h (11 June 2012)
  - Nieuwsuur (11 June 2012)
- News reports
  - F. Verhoef, De Spits (11 June 2012)
  - Het Algemeen Dagblad (11 June 2012)
  - De Volkskrant (11 June 2012)
  - Merijn van Nuland, incl. interview with Leo Buskens, De Volkskrant (12 June 2012)
- Columns
  - ✓ Keira, Krapuul (12 June 2012)
  - ✓ Marlou van Hintum, De Volkskrant (12 June 2012)
  - A. Nanninga, Geen Stijl (12 June 2012)
  - ✓ Folkert Jensma, Het NRC Handelsblad (16 June 2012)
  - Joost Niemoller, De Dagelijkse Standaard (17 June 2012)
  - Theodor Holman, Het Parool (13 June 2012)
  - Afshin Ellian, De Elsevier (15 June 2012)
  - Nora Kasrioui and Nadia Martosatimna-Laiti, Volkskrant (2 August 2012)

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<sup>155</sup> Foucault, 1972: 28

I processed these data into schemes like the following, in which I gave every video a letter and article a number. This helped me to schematically place them in categories based on frames and statements.

	Source	Journalist	Date
A	NOS 20.00 uur journaal	Editorial	11/6
B	Nieuwsuur	Editorial	11/6

1	Spits	Editorial	11/6
2	Volkskrant	Editorial	11/6
3	Algemeen Dagblad	Editorial	11/6
4	Krapuul	Keira	12/6
5a	Volkskrant report	Van Nuland	12/6
5b	interview	Van Nuland	12/6
6	Volkskrant	Van Hintum	12/6
7	Geen Stijl	Nanninga	12/6
8	NRC Handelsblad	Jensma	16/6
9	Dagelijkse Standaard	Editorial	17/6
10	Parool	Holman	13/6
11	Elsevier	Ellian	15/6
12	Volkskrant	Kasrioui & Laiti	2/8

## 4 Participation of Muslim women

### 4.1 Representation

In the debate about the question whether a sharia council should be institutionalized as a solution for marital captivity, Muslim women are the object of representation. There is nothing neutral or natural about this representation of Muslim women. Representations are subject to social conventions and historical processes, and are quite arbitrary.<sup>156</sup> Stuart Hall's definition of representation is: "(...) using language to say something meaningful about, or to represent, the world meaningfully, to other people."<sup>157</sup> In these discussions, stereotype representations of women influence the way people deal with information: negative representations about the Other stick to people's minds.<sup>158</sup>

The sharia debate constructs stereotypical images of 'the' Muslim woman, so that it becomes easier for media to talk about Muslim women as one homogeneous group. These stereotypes may differ from the images these women have of themselves and each other, and create a distance between media images and their self-perception.<sup>159</sup> This way, the media discourse becomes segregated from the discourses that are common in the (Islamic) subcultures of the respective groups.<sup>160</sup> One example of a stereotype image that creates a distance between media representations and Muslim women themselves is the idea that Muslim women are always oppressed by their men, religion and culture.

When the Western 'Self' defines itself positively and stereotypes the Muslim 'Other' negatively, it leads to discrimination of the Other.<sup>161</sup> It is problematic when stereotyping affects such a large group in society and may cause them to be (or feel) even more marginalized. That is why it is important to deconstruct stereotypes and look critically at the social actors that represent Muslim women in media and at mechanisms of exclusion that are involved in these processes.<sup>162</sup>

There are two definitions of representation, according to Gayatri Spivak, that are interwoven in a complex way. To explain the different dimensions of representation Spivak used the German words

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<sup>156</sup> Hall, 1997: 22

<sup>157</sup> Hall, 1997:15

<sup>158</sup> Shadid, 2005: 337

<sup>159</sup> Said, 1978: 21

<sup>160</sup> Van Dijk, 1993: 260

<sup>161</sup> Said, 1978: 21

<sup>162</sup> Hall, 1997: 25

*Vertretung* and *Darstellung* and described how they are related. *Vertretung* means representation in a political sense of the word: “stepping in someone’s place... political representation” thus speaking for the needs of another person or group. With *Darstellung* she means “placing there.... portrait” thus the imaging as described in the above paragraph.<sup>163</sup>

When a spokesperson represents its group in the political sense, he or she claims to speak in the name of others. But in the act of voicing a group’s interests and identity, you automatically turn them into an object of knowledge, or in other words portraying them.<sup>164</sup> Thus the complex relationship between *Vertretung* and *Darstellung* is that automatically there is a portrayal of the group in speaking for them:

“Now, the thing to remember is that in the act of representing politically, you actually represent yourself and your constituency in the portrait sense, as well.”<sup>165</sup>

For example, if you represent Muslim women – even if you are a Muslim woman yourself – it seems easy to collapse the two meanings of representation, thinking that speaking in Muslim women’s name (*Vertretung*) means voicing the opinion of a uniform group, while mistaking the portraiture (*Darstellung*) for the actual group. This whole group seems to be uniform in these representations but the category of ‘Muslim women’ actually doesn’t represent a homogeneous group. Differences in opinion within this group are ignored in this manner, as well as differences in media access.

Spivak says representation in this sense will always stay a problem without solution, which makes us obliged to always critique on representation and constructions of Others.<sup>166</sup> In the next section I will analyze which spokespeople participated in the sharia debate, and whether Muslim women actively participated in the debate or at least had their opinions represented.

## 4.2 Spokespersons

In the representation of Muslims in media debates, there are four major flaws in The Netherlands, according to Wasif Shadid: the simplification and distant presentation of Islam; problematizing and stigmatizing of groups; thinking in binaries of ‘us’ and ‘them’; and lack of participation in the media and

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<sup>163</sup> Spivak, 1990: 108

<sup>164</sup> Spivak, 1990: 63

<sup>165</sup> Spivak, 1990: 108

<sup>166</sup> Spivak, 1990: 63

their own vision.<sup>167</sup> The lack of access to media discourse is a good indicator for the lack of power Muslim women have (or any other marginalized group).<sup>168</sup> The access to discourse can be measured by their participation on three levels: as spokespersons (expert consultancy), as journalists (news makers) and as columnists (opinion makers). It is important to analyze whether Muslim women had control over their own representations, and whether they were being talked *with* or merely *about*. I will begin this section with an analysis of the main spokespersons as they were introduced by the NOS video report. I will look at the position of these spokespersons and in what context they are quoted.

The news items of NOS JOURNAAL and NIEUWSUUR marked the beginning of the 2012 sharia debate and introduced almost all the spokespersons that were later quoted by the articles during the entire debate. The two videos are nearly identical; the only difference is that a different introduction is given by the presenters and that the NIEUWSUUR item is a bit longer. The reporters (interviewers) of the item heard different parties, and it looks as if they quoted as many people as they could such a short airtime. The debate was however polarized from this very beginning because speakers were positioned as either for or against the institutionalization of a sharia council in The Netherlands. I put all quoted actors in a table with the total amount of articles in which they were quoted. This makes it easier to get a clear overview of the participators.

TABLE 1: SPOKESPERSONS QUOTED IN DEBATE

<b>proponent</b>	<b>number article</b>	<b>times</b>	<b>opponent</b>	<b>number article</b>	<b>times</b>
Haitham al-Haddad	A,B, 1, 2, 3, 4, 8, 11	8	Shirin Musa	A, B, 2, 3, 5, 8,	6
Maurits Berger	A, B, 5, 9, 10, 11	6	Khadija Arib	A, B, 2, 3, 10	5
Saoed Kadje	A	1			
Shazia	A, B	2			
Leon Buskens	5	1			
<b>Total</b>	<b>9 videos +articles</b>			<b>5 videos +articles</b>	

The quantity of quotes doesn't necessarily mean more influence in the debate. Dominant speakers can overrule other speakers by their rhetoric style or their choice of topic and words.<sup>169</sup> It is however interesting to see which women and men were most quoted, because it says something about who were

<sup>167</sup> Shadid, 2005: 331

<sup>168</sup> Van Dijk, 1993: 256

<sup>169</sup> Van Dijk, 1993: 279

seen as authorities on a subject, and about who were most supported or critiqued by the media. An increased quantity of Muslim women in the media doesn't necessarily lead to a better quality of discourse, but it is interesting to see which persons were quoted the least times, because it tells something about the reason why some voices are ignored, censured or forgotten.

The total number of quoted people is not very high: seven people were quoted, of which only four people were frequently discussed. This means that not many experts were consulted on the subject. And neither were the many Muslim women – about whom the media (think they) debated – asked to speak out on their rights in the light of sharia councils. The fact that Muslim women like Shirin Musa were given the opportunity to speak in the media can be seen as a positive thing, especially when she is the first to speak about a relatively unknown subject. But Spivak is more critical and says that media are still in control at the end. Especially in the context of multicultural issues: the media decide who to interview, 'they choose what parts they want to hear, they choose what they then do with this material.'<sup>170</sup>

## **WOMEN**

Tanja Dreher explains how it is possible that marginalized people do get a voice in the media but at the same time aren't heard. She uses the situation of Muslim women in Australia as an example: their struggle is not to speak up in media, but to be heard on their own terms.<sup>171</sup> Dreher mentions two pitfalls that can push Muslim women into stereotype categories and lose authority over their own representation. The risk for a Muslim woman namely, is that she has to choose one of the two positions in order to fit into the media logic that works with existing stereotypes. She will not be heard by a mainstream audience unless she is labeled as either condemning Islam for gender oppression or as a victim of Islam's gender oppression, because these positions affirm existing notions.<sup>172</sup>

The first Muslim woman that is introduced in the news video is Shazia (which may not be her real name), a practicing Muslim woman of Pakistani origin.<sup>173</sup> She is in disguise, so only the back of her head is shown when she talks. She is introduced as one of the Muslim women who succeeded in getting an Islamic divorce at the Islamic Sharia Council in London. In the video she tells about her experiences as a captive of an Islamic marriage, and how her (ex-)husband could demand his financial and sexual rights as

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<sup>170</sup> Spivak, 1990: 63

<sup>171</sup> Dreher, 2009: 447

<sup>172</sup> Dreher, 2009: 447

<sup>173</sup> NOS JOURNAAL 20:00h, 11 June 2012

long as he regarded her to be his wife Islamically. She says she is a strong proponent of a Dutch sharia council, because if it would have existed earlier she wouldn't have had to travel to London, and because it will make things easier for women who don't have the opportunity to travel.

I think it is a positive thing that she was interviewed in the national news, because her story is relatively new to the greater Dutch audience and thus gave a unique insight into the phenomenon of marital captivity. And also because her story is going against the dominant (Islamophobic) discourse in the sense that she strongly supports the existence of sharia councils, and in the sense that she was portrayed as a woman who had overcome her problems and successfully escaped from her oppressive husband. But on the other hand she fits into the representation of a victimized Muslim woman, who got beaten by her husband. She was quoted because she faced injustices as a result of her 'Islamic' marriage, thus corresponding with the category that Dreher called 'the victim of Islam's gender oppression'.

Although Shazia was the main actor in the news item, she wasn't quoted in the articles after that. Apparently Shazia's experience and that of other Dutch Muslim women weren't considered valuable enough by journalists and columnists to include in their articles. This could be explained by Dreher's theory of the politics of listening. With this term, she means the difference between *speaking* and *to be heard*, and that the latter is the greatest challenge for marginalized women.<sup>174</sup> What happens is that when a Muslim woman speaks, she is only heard to the extent that recipients gained enough knowledge to master the Other. Recipients in that case hear enough to condemn Islam for being gender oppressive. *To be heard* on the other hand, means that recipients are aware of their own (privileged) position and listen in order to understand Others better and understand their location within networks of privilege and power. Dreher calls this 'listening across difference.'<sup>175</sup> In this case, women have the opportunity to be heard on their own terms.

The news item introduced two other Muslim women: Shirin Musa, chairwoman of Femmes for Freedom, and Khadija Arib, member of the Dutch parliament for the labor party (PvdA). They fall within Dreher's category of 'condemning Islam for gender oppression'. I would prefer to make a nuance: they don't condemn Islam in general, because they are practicing Muslim women, but condemn specifically the application of sharia law in The Netherlands because they think it has a negative effect on women's rights.

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<sup>174</sup> Dreher, 2009: 447

<sup>175</sup> Dreher, 2009: 451

Shirin Musa, a law student of Pakistani origin, is the chairwoman of Femmes for Freedom, an organization that counters forced marriages and marital captivity by advising women and lobbying for national laws. Musa is an opponent of sharia councils in The Netherlands, and contributed half of all quotations against a sharia council. She had a negative experience herself and she works with women who faced many injustices when bringing their divorce cases in sharia councils. In this context, Musa was asked about the dangers of being locked up in an Islamic marriage, the dangers of handing a case over to a sharia council, and on the benefits of national law.

A third Muslim woman is introduced, to represent the opinion of the Parliament, namely Kadija Arib, member of the PvdA party (labour party). She contributed the other half of the quotations against a sharia council. Arib says Dutch judges should be in the position to force Muslim men to divorce their wives, in case they refuse. The fact that she is a Muslim woman of Moroccan origin strengthens her opinion on solving marital captivity via national law. In this case, the notion of ‘authenticity’ is important for the media: listeners want to hear that person speaking as an ‘authentic’ Muslim, representing Muslim women. But the dominant culture defines what is seen as an authentic Muslim experience.<sup>176</sup> This spokesperson is then elevated quickly to speak for *all* Muslims, so that the rest of the Muslims aren’t heard because “they already covered that group” and it becomes an alibi.<sup>177</sup> On top of that, the consulted spokesperson may be chosen by the media instead to represent the group instead of the group itself. As long as Muslim women are not represented by people they consider ‘insiders’, they don’t hold power over their own representation.<sup>178</sup>

Arib’s participation in the debate comes with a purpose: she is expected to know Islam from within, and through her experience with Islamic law, she understands it as gender oppressive and fights against sharia-based mediation. The combination of Arib’s identity as a Moroccan woman and her opinion on banning sharia law – which is in line with the Parliament’s opinion – makes her rhetorically powerful. This representation prevents Muslim women with other opinions to be represented with equal rhetoric force. Because Muslim women, as diverse as they are, could agree with her on banning sharia councils, but could also oppose her and welcome sharia councils. This latter opinion doesn’t however resonate in political spokespersons’ opinions, because it is unlikely to see a member of the Parliament in the debate that doesn’t speak of Islam in terms of opposing women’s rights. I would like to refer here once again to Dreher’s theory about the pitfalls of Muslim women that speak in media: often they will be either

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<sup>176</sup> Spivak, 1990: 61

<sup>177</sup> Spivak, 1990: 170

<sup>178</sup> Spivak, 1990: 170

labeled as condemning Islam (or sharia councils in this case) for gender oppression – which is the case for Musa and Arib – or they will be labeled as a victim of Islam’s gender oppression – like Shazia.<sup>179</sup>

The problem is not so much the labeling itself, because these women identify themselves also strongly as pro- or opponents, but it is the fact that in media discourse there is only space for these two extreme positions. There is not much room for a position in between or at a more complex level. These two positions confirm some Western notions of empowered liberated women that reject Islam or as victims – causing more anti-Muslim sentiments.<sup>180</sup> This type of discourse doesn’t give space women with more complex or nuanced perspectives and to diverse knowledges. Whenever a Muslim woman (or man) speaks in the media and it’s not her intention to fit into one of these categories, it is hard to find a balance between addressing gender issues (in a complex multi-layered way) and presenting your opinion effectively in order to be heard by a greater audience.<sup>181</sup>

In the introduction chapter, I explained how the interviews with Shirin Musa in 2011 seem to shift the role of the Muslim woman from object to subject, from victim to hero and from the margin to the center. This shift in representation of Muslim women appears to be present in the 2012 debate when NOS JOURNAAL and NIEUWSUUR give voice to three Muslim women with different points of view, because they actively participate in the debate. But when the sharia debate continues in the newspapers, Shazia wasn’t quoted by any of the articles, so her point of view disappeared. Musa and Arib – although quoted as opponents of sharia councils – were also sidelined by journalists, in the sense that their arguments and experiences were not mentioned in depth in the articles. Especially Musa, a lawyer working with Muslim women, could have been quoted (or interviewed instead) by newspapers a lot more on her expertise and on the reasons why she thinks a sharia council would put women at a disadvantage.

## **MEN**

Saoed Khadjé, a Dutch Muslim prominent, was approached by the NOS journalists to be interviewed on the topic, so he was quoted in one of the two broadcasts. Since he is a well-known teacher in Islamic studies, he can be regarded as an insider on the subject matter by a lot of Muslims in The Netherlands. He was introduced by the news item as a member of the Islamic Sharia Council in London, who mediates specifically in the Dutch divorce cases. Although it can be positively valued that the NOS journalists approached Khadjé and give his perspective a stage, the NOS gave him a minor role in the item by

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<sup>179</sup> Dreher, 2009: 447

<sup>180</sup> Dreher, 2009: 447

<sup>181</sup> Dreher, 2009: 447

showing just a short fragment of the total interview. He is an expert in the field of *fiqh*, Islamic divorce and problems of the Dutch Muslim community and already solved many marriage conflicts in The Netherlands, but still is only quoted when denying the statement that a sharia council is the equivalent of a court. Through his work at the Islamic Sharia Council and his own Nasiha Consultancy, he has much insight on the exact needs and risks of the Dutch Muslim community, but even none of the following newspaper articles made use of his expertise.

The fact that he is quoted so briefly tells that the news item presents Islam distantly and from an outsider's perspective. According to Shadid, Islam is a religion that is generally represented from an outsider's view, which means that it is not interpreted and presented the way Muslims themselves would do it, if they were in control over their own representation.<sup>182</sup> For example, Muslims themselves would not just use one sentence of Khadjé as a quote but would let him speak more, I believe, because he has much experience on the issue of Islamic marriages and divorces through his mediation work in the Muslims community. It is actually not surprising that he was quoted so briefly, because he speaks from an Islamic point of view, which is a marginalized view anyway in mainstream Dutch media.

Next to Khadjé, two other men were interviewed by the NOS journalists. These men, Haitham al-Haddad and Maurits Berger, were also proponents of a sharia council. In contrast to Khadjé, al-Haddad and Berger were quoted very frequently in the newspaper articles. Al-Haddad was introduced with the sentence "known for his insulting statements against Jews and women" because his visit to The Netherlands in February 2012 was controversial for this reason. This introduction made it easy for journalists and columnists after that to portray him as the face of the campaign in favor of a Dutch sharia council. Al-Haddad became the object of critique, related to fear for Islamic law and Muslims' gender oppression in eight news items and articles. On the website of NOS a 34 minutes long interview with al-Haddad can be seen,<sup>183</sup> but in the news items he is only quoted briefly when he says:

"It is very advisable to have a sharia council for Dutch Muslims in The Netherlands."<sup>184</sup>

It was mainly al-Haddad who got the most attention throughout the debate, in a superficial way however because often he was only briefly mentioned as an advocate for sharia counseling, but his actual arguments about the role of sharia councils in marriage and divorce issues was not reproduced in the NOS JOURNAAL and NIEUWSUUR nor in the articles. Given the fact that the NOS Journaal presenter,

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<sup>182</sup> Shadid, 2005: 332

<sup>183</sup> <http://nos.nl/video/382730-nederland-moet-eigen-shariaraad-krijgen.html>

<sup>184</sup> NOS JOURNAAL 20:00h, 11 June 2012

many columnists and journalists mention Al-Haddad as an advocate for sharia law and/or critiqued him for it, the sharia debate is mainly constructed as a fight of the white, non-Muslim Dutchman against al-Haddad.

Lawyer Maurits Berger, expert on Muslims and Islamic law and working at the University of Leiden, spoke from a proponent's perspective about the responsibilities of Muslims to solve religious issues within the religious community itself. But, like al-Haddad, he was quoted very minimally since his name was mentioned but not his explanation and arguments. Although one would expect that a white, non-Muslim law scholar like him would be taken seriously in the media, he was portrayed by some participators, like Shirin Musa in the news item or Afshin Ellian in his column, as an extremist misogynist:

“Berger and his peers apparently are locked up the whole day with fundamentalist or believing Muslims. They probably don't meet normal Muslims. Do Dutch Muslims need a sharia council that has to grant women the right to divorce? Are those Muslimas that backward? Sorry Maurits, there sure are people in the mosques of Medina who think you have great knowledge, but you really think most Muslimas are backward figures [...]”<sup>185</sup>

Apparently the combination of Berger's whiteness and his pro-sharia opinion is so controversial, that many newspaper articles and columns only critique him, instead of making use of his expertise within the field of Dutch law and Islamic law.

The spokespeople introduced by the item form the select group of people consulted in this debate. The articles in the debate mainly quote the speakers from the item and hardly consult more speakers. Only one more speaker, a man, is consulted in the 2012 sharia debate: cultural anthropologist Léon Buskens, expert on law and culture in Islamic societies and working at the University of Leiden. He was interviewed by Merijn van Nuland for the newspaper *De Volkskrant*.<sup>186</sup> It was not really on the topic of marital captivity and Islamic divorce, but rather on the topic of sharia in general and the compatibility of it with Dutch law in specific. The interview was published though on the same page as an editorial piece about the 'news' on Haitham al-Haddad's 'plea' for a Dutch sharia council. The interview with Buskens is accompanied by a picture of him: a white, non-Muslim with glasses, an appearance that could match with the terms 'neutral' or 'knowledgeable' for example. It is a quite nuanced article because he didn't let himself be pushed into a position either for or against sharia law. But I placed Buskens under the

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<sup>185</sup> Ellian, *De Elsevier*, 15 June 2012

<sup>186</sup> Van Nuland, *Volkskrant*, 12 June 2012

category of pro-sharia council in table 1, because he explains sharia law without negative undertone and incorporates different (positive) visions on it:

“The sharia is more than just Islamic jurisdiction. It is guidance for one’s entire life. What to do when a child is born, how to wash someone after his death? The sharia is about purity, morality and ethics – it is about all aspects of existence.”<sup>187</sup>

However, the interview in general is more in line with the dominant discourse, framing sharia law as something that is opposing Dutch (gender) norms and values. The journalist uses leading questions to frame the article in that certain rhetoric. According to Shadid, the Dutch debates are characterized by rhetoric such as denial of shared values with Muslims, and posing leading questions with an implicit message or undertone. For example: should we allow honor killings in The Netherlands?<sup>188</sup> The questions journalist Van Nuland asked were: “But it is a strict law: God’s will prevails? How is the sharia used politically? How do you explain the rise of Sharia4Holland and Sharia4Belgium? Can sharia law ever exist next to Dutch law?”<sup>189</sup> This kind of rhetoric doesn’t voice Muslim women’s opinions, nor does it contribute to a constructive debate about their rights, because it focuses more on spreading fear for Islam than on shared values.<sup>190</sup>

To conclude; the articles put Al-Haddad and Berger as proponents against Musa and Arib on the opposing side. Although these four people are presented as insiders and experts on the subject matter, their statements are all reproduced or explained at a minimum level. In short, Muslim women, Muslim men and their opinions are marginalized in the sharia debate, because of different reasons: media choose who is put forward as a spokesperson; because there exists the pitfall of the two extreme stereotypes of either being a victim of Islam or rejecting Islam; because media choose quotes and edit them; because Islam and Muslim’s issues are presented from an outsider’s view; and because leading questions are posed with an undertone.

### *4.3 News and opinion makers*

#### **JOURNALISTS**

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<sup>187</sup> Van Nuland, Volkskrant, 12 June 2012

<sup>188</sup> Shadid, 2009: 10

<sup>189</sup> Van Nuland, Volkskrant, 12 June 2012

<sup>190</sup> Shadid, 2009: 10

To get a better understanding of which actors defined the media debate, I will take a closer look at the journalists and columnists behind the news broadcasts and articles. Journalists are news makers and form a large part of the media industry. Journalists' aim is to report the news based on objective facts or on society's opinions.<sup>191</sup> But recent researches show that there is no such thing as a neutral medium, and that every message is colored. These colored messages influence media users, and vice versa: media often select topics of which they think their users find important, so media users also influence what is discussed in the media.<sup>192</sup> Media also lean, next to their users, heavily on sources of dominant groups in society like governmental institutions and politicians. Mainstream media generally don't consult minority news sources.<sup>193</sup> This leads to representations of mainly dominant discourses, whereby minorities' discourses are marginalized.

According to Shadid, *alloctonen* (ethnic others, in The Netherlands often a synonym for Muslim minorities) have minimum access to the category of journalists and editors and participation in normal television broadcasts. Also opinion pieces are often written by *autochtone* (white Dutch) writers.<sup>194</sup> When Muslim minorities are underrepresented in the world of journalism, in combination with the fact that journalists don't really make use minority news sources, it leads to journalism on Islam that is based on mainly outsider's perspectives. An example of this is that journalists often link the category of 'Muslims' to negative international incidents and problems in Muslim countries.<sup>195</sup>

TABLE 2: JOURNALISTS AND EDITORIAL BOARDS

journalist for	number article	journalist against	number article
Merijn van Nuland	5	Editorial boards	1, 2, 3, 7
Nieuwsuur**	B	NOS Journaal*	A
<b>Total</b>	<b>2 articles</b>		<b>4 articles</b>

\* the NOS Journaal presenter spoke from an anti-sharia perspective, which doesn't necessarily mean that the reporter (Margriet Brandsma) is also against a sharia council

\*\* the reporters of these video are two women: Mirjam Bartelsman en Milena Holdert

<sup>191</sup> Shadid, 2005: 331

<sup>192</sup> Shadid, 2005: 331

<sup>193</sup> Shadid, 2005: 340

<sup>194</sup> Shadid, 2005: 335

<sup>195</sup> Shadid, 2005: 335

Muslim women didn't participate on the level of news production in the sharia debate in 2012, as far as can be traced since the videos or articles written by editorial boards don't come with the journalists' names. The two news videos and four newspaper articles were written, reported or presented by all Dutch non-Muslim journalists or by anonymous editorial boards. The total sharia debate of 2012 consisted mainly of seven opinion pieces and six editorial (news) items, and none of them were written, reported or presented from a (traditional) Muslim insider perspective, let alone by Muslim women themselves. This means these women were not involved in news production about issues that affect their own group.

### COLUMNISTS

Columnists contributed a severe part of the sharia debate in 2012. The debate counted more opinion pieces than news reports. Because the topic of sharia councils was so controversial, many columnists gave their opinion on it and also responded to each other's articles. Opinion leaders are part of a certain group, almost a subculture, for whom they write their columns and with whom they share the same norms and values. In this way, columnists color the message they convey in such a way that it is in line with their own opinion, biases and values.<sup>196</sup> In the case of reports on topics related to Islam, columnists' biases cause them to copy negative statements that exist in society, without looking for alternative opinions.<sup>197</sup> Therefore it is important to analyze who these opinion leaders are, in terms of who and what they represent, and whether they are for or against sharia councils. What role did Muslim women play on the level of opinion making?

TABLE 3: COLUMNISTS

<b>columnist for</b>	<b>number article</b>	<b>columnist against</b>	<b>number article</b>
Keira	4	A. Nanninga	7
Marlou van Hintum	6	Joost Niemoller	9
Folkert Jensma	8	Theodoor Holman	10
		Afshin Ellian	11
		Kasrioui & Laiti	12
<b>Total</b>	<b>3 articles</b>		<b>5 articles</b>

<sup>196</sup> Shadid, 2005: 339–340

<sup>197</sup> Shadid, 2005: 340

The total opinion pieces for and against a sharia council and the total of women and men are almost equal in numbers, so at a first glance it seems as if both genders and different groups are equally represented. Three opinion pieces out of seven are written by women: two of them are Dutch non-Muslim women who wrote from a multiculturalist perspective in favor of a sharia council, and two women are Moroccan (Dutch) Muslims who are critical about conservative Islam and claim to represent progressive or feminist Muslim women.

Feminist activists Nora Kasrioui and Nadia Martosatimna-Laiti worry about the risk that progressive Muslim women won't get a fair trial at a conservative sharia council and that this affect their emancipation negatively.

“An independently minded Muslima can decide to not recognize a sharia court. Still, there is a chance that she will be hindered a lot by the official verdicts. After all, people in her community will find it unacceptable if she doesn't acknowledge.”<sup>198</sup>

Although Kasrioui and Laiti claim to defend (modern) Muslim women, they might exclude or marginalize a part of this group. By implying that Muslim women are (morally) obliged to make use of these councils, they represent these women as defenseless against social pressures. This representation reproduces stereotypes in the discussion.

Three of the four articles are written by men are against a sharia council; one of those men is Theodoor Holman, a Dutch non-Muslim columnist who is known for his neo-realist Islam critique. One of the others is Afshin Ellian, an Iranian (Dutch) lawyer who fled from the Iranian repressive regime and is also known for his Islam critique. Joost Niemoller is also known for his Islam critical columns. In the next chapter, I will discuss in depth the kind of discourse they represent (neo-realism). There is a fourth male columnist, Folkert Jensma, and although he is not against the existence of sharia councils, he is quite critical about Islamic beliefs and practices. These men voice mainly the opinion of their white, non-Muslim, middle class audience,<sup>199</sup> instead of considering Muslim women's opinions or critically engage with them.

None of the eight columnists is a mainstream Muslim writer – with which I mean someone who is grounded in the traditional Islamic thought and isn't part of the progressive liberal movement – nor a Muslim woman with expertise in Islamic jurisprudence. Although all columnists discuss Muslim women,

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<sup>198</sup> Kasrioui & Laiti, De Volkskrant, 2 August 2012

<sup>199</sup> Shadid, 2005: 340

not a single Muslim woman got access to this discussion as an opinion maker. The question whether a sharia council would provide a solution to the difficulties around Islamic divorce for women (*khol'*), is of concern to many Muslim women in The Netherlands, yet ironically, Muslim women don't discuss this topic themselves on the level of journalism or opinion making.

#### 4.4 Conclusion

Muslim women were marginalized by a limited *Vertretung* (speaking in the name of) and a victimizing *Darstellung* (portrayal). The limited number of quoted people and the minimum extent to which newspapers elaborate on the diverse statements, flattens out the debate about whether a sharia council should be institutionalized and the effects this may have on the condition of Muslim women. The newspaper articles contain little information about Muslim women's daily lives, opinions, needs or fears. Even if columnists firmly oppose sharia councils, the least they could do to write more inclusively is to critically engage with Muslim women's range of opinions.

Although some women like Shazia and Musa were interviewed in the videos report, and one of the opinion pieces is written by two Muslim women, Muslim women in general are excluded from the discussion on the level of spokespersons, journalists and columnists. Muslim women weren't consulted, except for three women who were easy to portray as either a victim of Islam's gender oppression or as a liberated woman who condemns sharia for its gender oppression. This representation of women as objects instead of subjects of discussion only reinforces stereotype notions of Muslim women's limited agency.<sup>200</sup>

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<sup>200</sup> Korteweg, 2008: 483

## 5 Framing the sharia debate

After analyzing Muslim women's representation mainly in the *Vertretung* sense in chapter 4, I will now look at representation in the sense of *Darstellung*: how are Muslim women portrayed in text and images, and how is the relationship between sharia law and women's rights framed? In chapter 3 (Method) I explained the four different frames that can be found in literature on the representation of Islam, Muslims and women in Western media. In this chapter I look at the way the articles in my case study frame the sharia debate along to these four frames.

I will highlight the main arguments that participants in the debate used in favor of or against a sharia council, and relate these arguments to the frames. I will also analyze what exactly is seen as a problem and what as a solution, because that says something about the framing of 'the problem' of Muslim women in this debate.

### 5.1 Vulnerable victim frame

In chapter 3 I explained what this first frame implies: Muslim women are often represented as victims of gender oppression and as more vulnerable to gender-based violence than other women (outside Muslim cultures) because Islam is portrayed as inherently sexist and misogynist in these cases.<sup>201</sup> In this section I will explore how this frame is used in the Dutch sharia debate in 2012.

The news program NOS JOURNAAL of 20:00h (11 June 2012) was the first to open the sharia debate in 2012. The news presenter introduced the video report on sharia councils and started with the following phrase:

“De sharia in The Netherlands: that would be very bad news, even just for women. Islamic law that puts women at a disadvantage. But now there is a plea for a sharia council, to institutionalize it here. Exactly to help women. An advice council as known in London, where Islamic women still have to travel to.”<sup>202</sup>

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<sup>201</sup> Zine, 2002: 3

<sup>202</sup> NOS JOURNAAL 20:00h, 11 June 2012

This introduction by the presenter had a different undertone than the video report itself. The video poses the 'fair' question whether it is worthwhile to explore the advantages of a sharia council in The Netherlands for Muslim women that want to divorce their husband. But the introduction of the presenter colors and almost overshadows the answers that different spokespersons in the video give. The introduction says something meaningful about the way the sharia debate was framed: sharia law is framed as bad for women and in opposition to women's rights. The introduction almost has an Islamophobic undertone, stating that "that would be very bad news, even just for women." The sentence "exactly to help women" stresses the irony of the idea that a sharia council could possibly benefit women.

Images of a divorce case at the Islamic Sharia Council in London follow, in which a woman explains to the imam she wants to divorce her husband because he hit her. The imam concludes that "it is not a very serious matter" if he only hit her once. This fragment corresponds to the introduction "Islamic law that puts women at a disadvantage." It seems to serve as a proof for the argument that sharia law is contradictory to women's rights because the imam doesn't take the violence very seriously. These words are the only fragment that is shown from this specific case, and the 'verdict' of the 'judge' is not shown. Recipients can only speculate because they will be unable to tell from this short fragment whether a sharia council acts justly and respects women's rights.

The question whether there should be a sharia council in The Netherlands, is discussed in the light of women's rights and marital captivity. That makes it seem as if sharia councils are in essence unwanted, but only welcome when they dissolve marriages (Joost Niemoller also referred to this irony in *De Dagelijkse Standaard*<sup>203</sup>). On the other hand it is not surprising that NOS JOURNAAL and NIEUWSUUR frame the debate through the marriage dissolution argument, because Sheykh Sayeed, chairman of one of the sharia councils in The United Kingdom, said that most of the council's clients are women who seek a divorce from their husbands, because they were forced into marriage or are physically abused by them.<sup>204</sup> However, the representation of Muslim women as victims is problematic in this debate, which I will illustrate by the following examples.

On 11 June 2012, just after the NOS JOURNAAL and NIEUWSUUR broadcasted their items on sharia councils, journalist F. Verhoef posted an online article for newspaper Spits named "Muslim: sharia council in The

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<sup>203</sup> Niemoller, *De Dagelijkse Standaard*, 17 June 2012

<sup>204</sup> <http://www.independent.co.uk/news/uk/home-news/the-big-question-how-do-britains-sharia-courts-work-and-are-they-a-good-thing-1724486.html>

Netherlands, please.” He mainly describes the issue according to things that were said in the news items, for example interpreting Haitham al-Haddad’s words: “According to the orthodox Muslim man, it is the duty of the Dutch authorities anyway to take care of her citizens, so that not everybody has to travel to London”.



An element Verhoef added to frame the article was the commentary that “there were no parliamentary questions yet”, meaning that Verhoef thinks his audience find it important to know whether the government is shocked about the idea and undertake action to prevent it. Verhoef also added a picture of Afghan women in blue burkas with the caption: “All women in a burka...” This article suggests that a sharia council in The Netherlands would enhance gender oppression and force all women to subordinate themselves to conservative Islam, of which the burka is a symbol.<sup>205</sup>

The column of A. Nanninga from the website *Geen Stijl* also makes a reference to the blue Afghan burka: he added a picture of a presenter in burka in the *Nieuwsuur* studio, with the text “Click [here](#) for sharia promotion broadcasting with Marielle Tweebeke”. This suggests that the presenter of *Nieuwsuur*, Marielle Tweebeke, promotes the institutionalization of a sharia council in The Netherlands, since this program introduced the video report with a less negative undertone than the NOS for example.<sup>206</sup> Nanninga further states that the sharia lacks hundreds of years of Enlightenment as to “misogynist backwardness.” The burka is the ultimate symbol for gender oppression and limiting women’s freedom. In using this symbol, I believe Nanninga draws a direct link between strict sharia law in foreign countries (like Afghanistan) and a Dutch sharia council as institutionalization of gender oppression in The Netherlands.



Joost Niemoller asks the following question in his article “Why does the NCR want a sharia council in The Netherlands?” in *De Dagelijkse Standaard*: “what if [a sharia council] doesn’t grant a divorce in case of a marriage in which the Muslim man practices his Muslim right by beating up his wife on a daily basis?” His main argument is that it is best for The Netherlands if there is only one national law, and critiques *Het NCR Handelsblad* for finding the interest of an “extreme Pakistani Muslima” more important than the interest of all people of The Netherlands.

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<sup>205</sup> Verhoef, De Spits, 11 June 2012

<sup>206</sup> Nanninga, *Geen Stijl*, 12 June 2012



De Dagelijkse Standaard is not a big newspaper, but I included this column in my analysis because it responds to the big newspaper Het NRC Handelsblad, and because it illustrates how sharia law is framed in relation to women's rights violations

abroad. This article is accompanied with a picture of a foreign woman who is about to be stoned to death.<sup>207</sup> It frames the sharia council as worsening the 'already' bad position of Muslim women, because it can support the (presumed) Islamic right to abuse or punish a woman. Sharia in this article is associated with corrupt regimes of Muslim countries that violate international standards of human's rights with their corporal punishments.<sup>208</sup> This way, this article reinforces the stereotype about Islam as incompatible with gender equality, and that human rights and freedom are only guaranteed in Dutch national law.<sup>209</sup>

There was another article that focused on the physical abuse argument against sharia; a column of Theodoor Holman in Het Parool. His main argument is that sharia

De vrouw mag niet scheiden van de islam, ben je gek!

*"The wife cannot divorce in Islam, are you nuts?"*

contradicts Dutch law because sharia is amoral, and he explains: "Sometimes Islamic women also want to divorce their husbands, because when he strictly follows the Quran, the Mrs. can be beaten, and sometimes she doesn't feel like it [...] The sharia is often contradictory to our law system. But to give in to the beating man and the beaten wife, Dutch theologians advocate for the implementation of sharia. Luckily, Parliament member Khadija Arib counters this firmly. She once said: 'In a country where the sharia rules, no woman wants to live.'<sup>210</sup>

And again a columnist refers to unjust implementation of sharia law in foreign countries. By linking sharia with foreign and abuses, and Dutch law with national identity and justice, Holman creates a secular/religious divide in the notion of gender equality. Razack analyzed the Canadian sharia debate and found that feminists, both Muslim and non-Muslim, thought along the secular/religious divide. Secular is associated with modern, enlightened and gender equal, whereas religious means tribal, backward and no freedom of choice. This binary suggests a dilemma between being religious and having individual rights as women.<sup>211</sup> In Holman's article, the position of Muslim women is represented in this

<sup>207</sup> Niemoller, De Dagelijkse Standaard, 17 June 2012

<sup>208</sup> Korteweg, 2006: 51

<sup>209</sup> Korteweg, 2006: 51

<sup>210</sup> Holman, Het Parool, 13 June 2012

<sup>211</sup> Razack, 2004: 26

way: they have to choose between being religious and oppressed on the one hand, and being part of the Dutch legal system that provides them individual gender equal rights on the other hand. This reduces a Muslim woman's agency to merely rejection of Muslim communities and Muslim law.

One of Islam-critic Afshin Ellian's arguments in his article "Maurits Berger, Muslims don't want a sharia council" in De Elsevier, is that Dutch authorities should not support the institutionalization of a sharia council in The Netherlands because Dutch Muslims, especially Muslim women, are not so "backward" to be interested in asking "backward" imams for permission to divorce. He mentions that "the sharia imam of London also respects the sharia's ruling on stoning fornicating women."<sup>212</sup> By these statements Ellian also frames women's rights along the secular/religious divide: he implies that a Muslim woman who chooses to bring her case to a sharia council is automatically backward and digs her own grave by giving up her Western individual rights.

Feminist Muslim women Nora Kasrioui and Nadia Martosatimna-Laiti claim to defend progressive Muslimas in their article "Free Muslimas will be regarded as sinners by sharia council" in De Volkskrant. They think a sharia council will not benefit liberated women and cause her emancipation to stagnate, because these women will be seen by orthodox imams as troublemakers and sinners who disrespect the Quran. So their main argument is that Muslim women should first strive for recognition of their progressive interpretation of Islam, by the conservative majority.<sup>213</sup>

Kasrioui and Laiti are worried about conservative interpretations of Islamic law, which are often seen as "the true Islam", because they will be too strict to liberal Muslim women. By criticizing this conservative version of Islam, they try to open up the application of sharia to more liberal interpretations. To stress the importance of acknowledgement of diversity among Muslim women in representations is in itself a noble striving. But their representation of Muslim women is also problematic: they put 'progressive' and 'emancipation' on one side, and on the other 'conservative' and 'patriarchal'. The missing point of view in this article would be the conservative Muslim woman who is emancipated, and doesn't consider orthodoxy and gender justice as mutually exclusive.

Kasrioui and Laiti also represent Muslim women as victims of their religious community by stating that "she will be bothered by the official verdicts" because "people in her environment" will push her to stick to the verdicts. This makes it seem as if women are automatically forced to cooperate in 'court' by their

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<sup>212</sup> Ellian, De Elsevier, 15 June 2012

<sup>213</sup> Kasrioui & Laiti, De Volkskrant, 2 August 2012

communities, without having any agency to refuse. This reinforces the idea that Muslim women are inescapably part of and dependent on the international religious community and on the approval of conservatives. Moreover, they reinforce the notion that Muslim women's emancipation rises or falls with the institutionalization of a sharia council.

## 5.2 Rescue frame

According to the rescue narrative Muslim women need to be saved from their men, culture and religion.<sup>214</sup> Therefore Dutch liberated people need to save Muslim women by strengthening the national law. This is what Shehada calls the 'rescue narrative', one of the main discourses in Western media.<sup>215</sup>

In the sharia debate, the first frame is used to prove Muslim women have a problem, namely sexist oppression by Muslim men that obstruct a divorce. The second frame is used to convince people of the need to undertake action to rescue Muslim women. The two different views on what this action should be, result in the third and fourth frame: the incompatibility frame and the multicultural frame, which I will discuss in sections 5.3 and 5.4.

### **Rescuing women from sharia council**

The video report contains different spokespersons that all have their opinion on what needs to happen in order to save Muslim women of their marital captivity. Shirin Musa, chairwoman of Femmes for Freedom, says the sharia in itself is the problem for women, that "a man almost always refuses to grant a divorce", and that a sharia council will institutionalize gender inequality and unfair trials for women. Musa says that the Dutch law should provide a solution by forcing men to divorce, on a penalty threat when they refuse. The voice-over says political parties are exploring this possibility, after which Khadija Arib (PvdA) confirms the idea to change the law, saying the law "needs to be clear" on this issue.

### **Rescuing women by sharia council**

Maurits Berger explains that: "according to Dutch law Muslim women are divorced in regular court, but these women still *feel* married, religiously. The question is then: must the state intervene or should the Muslim community itself provide a solution?" This is a rhetorical question, and Berger thinks it would be

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<sup>214</sup> Shehada, 2001: 243

<sup>215</sup> Shehada, 2001: 246

misplaced for a state to intervene in a marriage that is not recognized by Dutch law. He thinks the Muslim community should provide a solution herself (in the form of mediation at a sharia council).<sup>216</sup>

The introduction of news program NIEUWSUUR and three news articles/opinion pieces state that a sharia council in The Netherlands is necessary to provide Muslim women the option of religious divorce. They all frame the sharia debate in this 'rescue' way, to argue in favor of a sharia council, thus that a sharia council is necessary for the liberation of Muslim women. All the other articles argue against a sharia council, and some of them explicitly say Muslim women need to be protected from sharia, like the column of Kasrioui and Laiti, as discussed in section 5.1.

There is however one columnist that frames the sharia debate in the light of 'the Muslim woman in need of rescue' (frame 2) without framing the Muslim woman as the exclusive victim of gender oppression (frame 1). It is Keira (surname unknown) from the online blog Krapuul, which is not a mainstream medium but I wanted to analyze her argument for the sake of showing the diversity in framing. Keira's main point is that Dutch people are hypocrite by saying women are oppressed in Islam. She says women are oppressed and discriminated all the time, also in The Netherlands, but when 'Islam' and 'woman' are mentioned in one sentence, all Dutch people are suddenly righteous and upset. Her second argument for Dutch hypocrisy is the 'fact' that The Netherlands allows Catholic and Jewish women the possibility of a religious divorce, but let Muslim women down by banning sharia councils.<sup>217</sup> Keira's argument is heavily based on the idea Muslim women's salvation lies in sharia councils, although she claims Muslim women are not more oppressed than other women, which is contradictory in some sense.

### *5.3 Incompatibility frame*

In chapter 3 I explained that there is a certain discourse in which the West and Islam are seen as incompatible in the sense of politics, integration and religion. This frame is often supported by the first two frames: the Western Self not only needs to rescue victim Muslim women (frame 1 and 2), but also defend its own nation against Islamic influences (frame 3). The way to do that is through surveillance and stigmatizing.<sup>218</sup> One of the terms that are often used in this discourse is the 'clash of civilizations.' When a debate is framed as a conflict a priori, it means a lot for the way a particular problem is

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<sup>216</sup> NIEUWSUUR, 11 June 2012

<sup>217</sup> Keira, Krapuul, 12 June 2012

<sup>218</sup> Razack 2004: 157

discussed. Journalists/columnists that frame the sharia debate in this way, made use of words that create distance, emotions and fear.<sup>219</sup>

One of the first articles that can be categorized as using this frame is an article that was published in identical words in newspapers De Volkskrant and Het Algemeen Dagblad. After a description of the proposal to introduce a sharia council in The Netherlands and the spokespersons' main arguments, an extra paragraph is written called 'Visit' that illustrates the earlier controversial around al-Haddad's visit to The Netherlands in February 2012. It is mentioned that the Vrije University of Amsterdam cancelled a meeting with him:

“[...] after a majority of the Parliament wanted to prevent him entering the country because Al-Haddad made himself guilty of hate speech about Jews.”

The article also mentions that he eventually visited The Netherlands and participated in a debate about the position of women in Islam.<sup>220</sup> The article relates the main proponent of a sharia council with intolerance, political controversy and gender.

One of the pro-sharia articles, by Marlou Van Hintum, is critiqued by A. Nanninga from Geen Stijl for his argument “they do it too”. His main argument is that it is nonsense, because the difference between sharia courts and Jewish or Christian ceremonies is that sharia courts don't recognize the Dutch law, nor the separation of Church and state. Although the article uses informal and emotional language, it does ask an important question: when women are trapped in an Islamic marriage that is not acknowledged by Dutch law, how come we want to implement an unacknowledged law system next to our Dutch law?

The way he formulates his arguments is however typical for the incompatible frame: he associates sharia with mohammedan backwardness, Stockholm syndrome, giving a tumor a feeding tube, or giving babies to a pedophile. “There is only one law in The Netherlands, and people who don't recognize it won't get their own law, they are requested to behave or leave.”<sup>221</sup> The language in this column, for example the comparison of sharia with diseases, is illustrative of neo-realist statements that ‘break taboos’, are ‘straightforward’ and ‘get rid of political correctness’.<sup>222</sup>

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<sup>219</sup> Shadid, 2009: 9

<sup>220</sup> De Volkskrant, 11 June 2012 and Het Algemeen Dagblad, 11 June 2012

<sup>221</sup> Nanninga, Geen Stijl, 12 June 2012

<sup>222</sup> Prins, 2004: 4

Like Nanninga, Theodor Holman uses association with diseases in his opinion piece in *Het Parool*. He says proponents like Maurits Berger suffer from the disease of political correctness which leads to blindness to amoral behavior.

“Political correctness is a disease that one gets from senseless feelings of guilt. When a disease like that would not be more than just the flue, it wouldn’t be so bad, but often political correctness leads to cruelty and death.”<sup>223</sup>

These statements against the “Political Correctness Syndrome” are also characteristic for the neo-realist discourse. His main point is that sharia is totally contradictory to Dutch society, and that it is “corrupt, dangerous and humiliating.”<sup>224</sup> In short Holman, like the other columnists in this frame, use this kind of language to frame that the Islam or sharia as the main problem for Muslim women and for Dutch society in general, and find the Dutch national law to be the solution to Islam-related problems.

Joost Niemoller argues in *De Dagelijkse Standaard* that proponents of a sharia council are so concerned with Muslims’ fate that they forget the fate of Dutch society. Niemoller illustrates why the “adoption of sharia in The Netherlands” will cause extra problems. Just like Holman, Niemoller says the real problem is the presence of Islam in this country, because the more Islam, the bigger the problem will be. And just like Nanninga, Niemoller says Islam doesn’t recognize the separation of Church and state.<sup>225</sup> The argument of separation of Church and state reappears in Afshin Ellian’s article in *De Elsevier* in which he stresses that a religious marriage is not acknowledged by the Dutch law and can only take place after the civil marriage.<sup>226</sup> After the explanation about the legal status of a religious marriage, Ellian interprets the opinion of al-Haddad as a threat to The Netherlands. Ellian frames the sharia debate by stressing the authority of the Dutch law and by relating sharia councils to secret “jihad” missions.

“An intriguing provocation! The imam has a mission. His mission is to strive for application of sharia rules to Muslims in Europe. That is smart, because this way he keeps the Muslims within the boundaries of Islamic laws.”<sup>227</sup>

The argument of the separation of Church and state is mainly brought up by opponents (four articles and by Musa in the video report) to argue that sharia law doesn’t respect Dutch law as an authority, that sharia law is not recognized in The Netherlands, that there is no room for a parallel law system, or to

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<sup>223</sup> Holman, *Het Parool*, 13 June 2012

<sup>224</sup> Holman, *Het Parool*, 13 June 2012

<sup>225</sup> Niemoller, *De Dagelijkse Standaard*, 17 June 2012

<sup>226</sup> Ellian, *De Elsevier*, 15 June 2012

<sup>227</sup> Ellian, *De Elsevier*, 15 June 2012

stress the notion that women can only act in their own interest in Dutch court because its verdicts are binding. Proponents of a sharia council used the argument of separation of Church and state to prove that parallel law systems already successfully operate in The Netherlands (Folkert Jensma in *Het NRC Handelsblad*<sup>228</sup>) and to argue that the Dutch state shouldn't interfere in religious issues (Maurits Berger in *NIEUWSUUR*<sup>229</sup>).

### **Orthodoxy**

Last but not least, the article of Kasrioui and Laiti can be categorized as using the incompatibility frame. They claim sharia councils are incompatible with Dutch Muslim women at the moment, by stressing the orthodox, conservative, male character of existing sharia councils. They think these kinds of councils will prevail over liberal interpretations of Islam in which women's rights to choose a life partner, to work, to get an education and own property. They explain why Dutch law and sharia law are incompatible and relate this to gender:

“For example, a man can complain successfully about how his wife doesn't take good care of him and his possessions, let alone issues in which sex and reproduction are threatened. Such things are unimaginable in Dutch law.”<sup>230</sup>

They oppose this to the Dutch law that merely protects life and property and doesn't give normative verdicts on people's private lives.<sup>231</sup> Ruard Ganzevoort explains how the argument of 'orthodoxy' is used in framing news about Islam. He says that this frame is so full of negative emotions that they consider orthodox-religious movements as a threat to modern society and use every sign of expansion, proselytizing or pervasion as an argument against the presence of orthodoxy in the public domain. The problem with this is, according to Ganzevoort, that the threat is not realistic and out of proportion, comparing the reactions to non-religious identities, faiths or practices.<sup>232</sup>

At least ten articles, a great majority in this debate, can be classified as using the incompatibility frame, depending on whether only columnists' opinions are analyzed or also quoted statements. These articles consider the presence of Islam and sharia in The Netherlands a problem, and find a solution in Dutch national law that is represented as gender equal, neutral and respecting human rights. From these

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<sup>228</sup> Jensma, *Het NRC Handelsblad*, 16 June 2012

<sup>229</sup> *NIEUWSUUR*, 11 June 2012

<sup>230</sup> Kasrioui & Laiti, *De Volkskrant*, 2 August 2012

<sup>231</sup> Kasrioui & Laiti, *De Volkskrant*, 2 August 2012

<sup>232</sup> Ganzevoort, 2012: 10

articles I conclude that most arguments can be brought down to four arguments against sharia, which are presented in a neo-realist way of debating:

- 'Sharia is amoral, backward, intolerant, violent'
- 'A sharia council will be dominated by orthodox men who discriminate liberal women/interpretations'
- 'Sharia will be used as a political strategy' (or is associated with a certain political climate)
- 'There shouldn't be a sharia council in The Netherlands because we know a separation of Church and state' or: 'Sharia doesn't respect the separation of Church and state'

#### **MISSING POINT OF VIEW**

The neo-realist articles don't really answer the question what a sharia council would mean to gender relations in The Netherlands. They are focusing more on arguments like: a sharia council will have a bad effect on the position of Muslim women, because of orthodoxy, conservatism and sexism. Apart from cultural ideas or patriarchal ideologies that are always present in society and organizations, this argument is problematic. It is based on the notion that 'orthodoxy' a priori means 'disadvantageous for women'. Moreover, it is based on the idea that a Muslim woman herself is merely a victim of orthodoxy, and cannot have orthodox beliefs herself or make emancipated choices within an orthodox environment. This makes it seem as if all Muslim women in The Netherlands are potential victims of orthodoxy, and only need a sharia council in case it helps dissolving their marriage.<sup>233</sup>

This way, agency of Muslim women is portrayed as limited to resisting religious bodies and orthodox interpretations of Islam. This definition of agency as understood by Judith Butler means 'resistance against dominant understandings of right actions' which leads to freedom or autonomy.<sup>234</sup> Saba Mahmood on the other hand proposes a different interpretation of agency, especially in the context of Muslim women. "Muslim women's agency lies in actively shaping their desires through actions that are linked to piety in Islam, and is formed in direct relationship to structures of subordination."<sup>235</sup> She means by this that Muslim women don't have to resist religion in order to act in a self-interested way and can even find their liberty within religious structures and lifestyles.

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<sup>233</sup> NIEUWSUUR, 11 June 2012

<sup>234</sup> Korteweg, 2008: 438

<sup>235</sup> Korteweg, 2008: 438

## 5.4 Multiculturalist frame

Folkert Jensma states in his article “Sharia can have its own role within the national law system” that the separation of Church and state make it possible for parallel law systems to exist in The Netherlands, as long as they stay within the limits of the dominant law. Jensma then continues by describing that Jews and Catholics also have their own religious courts in The Netherlands, and that “every citizen is free to follow the rules of their own community strictly and to be advised by men in gowns that consult big books.” He argues that Muslims should be able to have their own advisers as well, although “the position of women within Islam is quite sad.” He uses frame 1 to victimize Muslim women, but argues that sharia councils should be allowed in The Netherlands because there is a separation between Church and state and because Jews and Catholics also have their courts.

“Where is the separation of Church and state when you need it? And why is there such a lack of trust in the normative power of the own law system?”<sup>236</sup>

He uses frame 2 to explain why Muslim women need a sharia council to be able to opt for marriage dissolution, and thinks a sharia council is an answer to their religious marriage issues.<sup>237</sup>

Another journalist, Marlou Van Hintum, also uses the argument of Jewish and Christian courts. In her article “Why isn’t a Muslim allowed what a Jew or Catholic is allowed?” in De Volkskrant she states that:

“We see men with long beards and long dresses, waving with the Koran, demanding death sentence by stoning (...) This reaction is understandable in the light of the vilification that PVV-foreman Geer Wilders led against Muslims until recently.”

Van Hintum then argues that it is a strange reaction, since no one feared the threat of Jewish and Catholic courts.<sup>238</sup>

I think these two arguments of the separation of Church and state and that Jews and Christians also have their courts, are not really touching upon the themes that are mentioned in articles that use the incompatibility frame. Both journalists for and against sharia councils use the argument of Church and state, but the neo-realists use it to portray Islam as a threat to gender equality and Dutch society and

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<sup>236</sup> Jensma, Het NRC Handelsblad, 16 June 2012

<sup>237</sup> Jensma, Het NRC Handelsblad, 16 June 2012

<sup>238</sup> Van Hintum, De Volkskrant, 12 June 2012

the multiculturalists use it to explain it is legally possible for minorities to have group rights and isn't a threat to state law. The multiculturalists don't really answer the question if a sharia council would be a solution to marital captivity. Moreover, the arguments above are the only arguments they use in favor of sharia councils, whereby they lack insider information and insider perspectives on the Dutch Muslim communities and the appliance of sharia in a Dutch context.

### 5.5. Conclusion

Proponents and opponents in the 2012 sharia debate center on the unequal treatment of women in Islam and their need for a solution to be saved from marital captivity. The opponents of sharia councils (or neo-realists) find the problem the sharia itself or the presence of Islam in The Netherlands, and see the ruling of state law and the banning of sharia councils as a solution. The proponents of sharia councils (or multiculturalists) see Muslim men that refuse a divorce as the main problem, and sharia councils as a solution. But the debate is dominated by neo-realists who frame the relationship between Islam and women's rights as highly problematic. The role of gender in the *othering* of Islam in a political context forms the basis to their articles.

These articles mainly rely on emotional arguments such as 'sharia is amoral, backward and intolerant' or refer to human rights violations abroad. This supports Shadid's theory in which he says that publications about the multicultural society are mainly based on anecdotes and emotional arguments instead of formal and solid arguments.<sup>239</sup> They are dominated by four issues that decline the quality of the debate: lack of knowledge, fear, rhetoric and demagoguery.<sup>240</sup> These discursive strategies legitimate the power of Dutch law to ban sharia law from The Netherlands, and naturalize the social order of Dutch law as gender equal and liberating.<sup>241</sup>

I conclude with a table in which the main arguments are placed under the four frames:

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<sup>239</sup> Shadid, 2009: 9

<sup>240</sup> Shadid, 2009: 9

<sup>241</sup> Van Dijk, 1993: 254

Frame	Arguments
1 Vulnerable victim	<ul style="list-style-type: none"> <li>• Muslim women are exposed to violence or discrimination</li> <li>• Sharia council will worsen this violence or discrimination</li> </ul>
2 Rescue	<ul style="list-style-type: none"> <li>• Muslim women need to be saved by sharia council</li> <li>• Muslim women need to be saved by Dutch law</li> </ul>
3 Incompatible (neo-realist)	<ul style="list-style-type: none"> <li>• Sharia is amoral, backward, intolerant</li> <li>• Sharia council will be dominated by orthodox men</li> <li>• Sharia will be used as a political strategy or is linked to political climate</li> <li>• No because separation Church and state</li> </ul>
4 Multiculturalist	<ul style="list-style-type: none"> <li>• Yes because separation Church and state</li> <li>• It is also allowed for Christianity and Judaism</li> <li>• Gender oppression is not unique to Islam</li> </ul>

## 6 Conclusion

The way Dutch popular media framed the sharia debate in 2012 is very characteristic of the Dutch discourse on Islam and the integration of Muslims. The role of gender was very present from the start, because multiculturalists thought a sharia council in The Netherlands could be a solution to marital captivity of Muslim women by dissolving marriages. Proponents and opponents in the 2012 sharia debate center on the notion that women are oppressed in Islam and stress their need for a saving from their Islamic marriage. Muslim women were the object of debate, more than subject, which reinforces the fact that Muslim women struggle to be heard.

Despite the fact that Muslim women's issues were the center of the debate and some women even spoke in the news reports, Muslim women in general were marginalized from the debate by a limited *Vertretung* (speaking in the name of) and a victimizing and othering *Darstellung* (portrayal). They were excluded on the level of spokespersons, journalists and columnists, which means these women were not involved in news production about issues that affect their own group. Since media often determine who speaks as a spokesperson, how long, about what and how this is framed, women are represented from an outsider's point of view. Muslim women that spoke in the media were easy to portray as either a victim of Islam's gender oppression or as a liberated woman who condemns sharia for its gender oppression.

The limited number of quoted people and the minimum extent to which newspapers elaborated on the diverse statements, flattened out the debate and made it easy to polarize the debate. The vulnerable victim frame and the rescue frame formed the basis for the question what is seen as a problem for Muslim women and what as their solution. The opponents of sharia councils think the sharia itself is a problem for Muslim women, and see Dutch law as a solution. The proponents of sharia councils see oppressive Muslim men as the main problem, and sharia councils as a solution. These answers can be divided into the neo-realist frame that stresses the incompatibility of Islam and sharia with Dutch law and society, and the multiculturalist frame that stresses the group right of Muslims.

The neo-realist articles of my case study mainly rely on emotional arguments such as 'sharia is amoral, backward and intolerant' or refer to human rights violations abroad. The articles from my case study are dominated by a lack of essential insider's information, fear and leading questions.<sup>242</sup> The articles relate

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<sup>242</sup> Shadid, 2009: 9

Islam as problematic, conflicting or threatening to women's rights in specific and Dutch society in general. Sharia law is a complex, nuanced, flexible and heterogeneous law system, but Dutch media reduce sharia to orthodoxy and misogyny, and don't discuss in depth what role sharia law can have in The Netherlands. These discursive strategies legitimate the power of Dutch law to ban sharia law from The Netherlands.<sup>243</sup>

When media continue to stereotype Muslim women and frame Islam and women's rights as mutually exclusive, it doesn't contribute to more justice in Muslim women's lives. Thus, when some groups in Dutch society consider to explore the possibilities of organizing sharia-based mediation in The Netherlands, this debate has to start with the recognition of the different opinions of Muslim women and of the fact that religion can be compatible with emancipation. This case study shows Dutch media need to work on better listening, recognizing and voicing diverse opinions, so that we as Dutch society give space to solutions that are grounded in reality and harmony of Islam *in* the West instead of *versus* the West.

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<sup>243</sup> Van Dijk, 1993: 254

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