

# “The Faroe Islands handle this themselves”: The convergence of bodily and national autonomy in abortion rights discussions



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“Føroyar taka sær av hesum sjálvar”: Samanfallið millum kroppsligt og tjóðskaparligt sjálvræði í viðgerðini av abortrættindum.

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## Abstract

Faroese abortion legislation is subject to CEDAW's (Convention on the Elimination of All Forms of Discrimination against Women) regular reports and has in the last two decades faced criticism for its failure to secure sufficient abortion rights. In this article we analyse international deliberation of the Faroese abortion legislation, where national autonomy as an ideal seemingly outweighs the right to bodily autonomy as a human right. Conducting a concept-oriented critique of how abortion rights are discussed in the convergence of these discourses of autonomy, we emphasise the limitations of arguing for bodily autonomy in relation to abortion rights as a human right. But we also argue that the rhetorical performance of statehood should be scrutinised when it reflects a problematic conception of the right to self-government where national statehood trumps reproductive citizenship. Rather than deliberating the circumstances under which reproductive rights are managed in the Faroe Islands, international attention to the Faroese case becomes an opportunity to underscore that “the Faroe Islands handle this themselves”. This article sheds light on both the foundation underpinning a human rights perspective on abortion rights and on the Faroese situation.

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### Úrtak

Viðkomandi fýroysk viðurskipti vera viðgjørð í frágreiðingunum hjá CEDAW (Convention on the Elimination of All Forms of Discrimination against Women) um danska kongaríkið og fýroyska abortlóggeván hevur sostatt seinastu tvey áratíggjuni fingið ábreiðslu fyri ikki at tryggja abortrættindi í nøktandi mun. Í hesi grein greina vit altjóða viðgerðina av fýroysku abortlóggevuni og hvussu tjóðskaparligt sjálvræði sum ideal verður sett hægri enn kropsligt sjálvræði sum menniskjarættindi. Gjøgnum eina hugtakslýsing av hvussu abort verður viðgjørt í hesi samanrenning av sjálvræðisdiskursum, leggja vit dent á hvørjar avmarkingar eru í samband við at grundgeva fyri nær abortrættindi eru menniskjarættindi. Men grundgivið verður eisini fyri hvussu retoriska framfýrslan av fullveldisstóðu Fýroya vísir eina ivingarsama fatan av rættinum til sjálvstýri har tjóðskaparligt sjálvræði vinnur á reprodúktivum medborgaraskapi: heldur enn at viðgera hvussu reprodúktiv rættindi verða tryggjað í Fýroyum, so verða altjóða ábreiðslur nýttar sum høvi at undirstrika at “Fýroyar taka sær av hesum sjálvar”. Sostatt lýsir greinin bæði grundarlagið undir menniskjarættindaatlitum til abort umframt fýroysku stóðuna.

**Keywords:** Abortion rights, reproductive governance, postcolonial discourse, the right to life, the right to autonomy

**Leitorð:** Abortrættindi, reprodúktiv stýring, postkolonialur diskursur, rætturin til lív, rætturin til sjálvræði

### Introduction

As part of the Danish Kingdom, the Faroe Islands is subject to the United Nations' (UN) periodic reviews of compliance with the Convention on Eliminating All Forms of Violence against Women (CEDAW). Since the Faroese abortion law limits access to abortion and breaches of the abortion law can be criminally sanctioned, the latest two CEDAW reports include concerns about abortion rights in the Faroe Islands. The Faroe Islands has thus faced criticism from UN institutions for lack of compliance with human rights conventions. Despite this, international institutions, such as CEDAW, the Nordic Council and the Danish Government, have not found this criticism to legitimate further action nor deliberation of the Faroese abortion rights situation.

The Faroe Islands has always held an exceptional position in the Danish Kingdom, and by the Home Rule Act of 1948 gained status as a self-governing country (Sølvará, 2003). Originally inhabited by Norwegian settlers around 800 AD, the islands became part of the Danish-Norwegian Kingdom and remained part of the Danish Kingdom, along with Greenland, after Denmark seceded Norway to Sweden following the Napoleonic War. Unlike Greenland's colonial status, the Faroe Islands held the status of a Danish county from 1816, yet the complexity of what position the Faroe Islands has in the Danish Kingdom is one of the issues this article brings to the fore.

Today the Faroe Islands is inhabited by 54,000 people distributed on 18 islands spaced in an area of 1,399 square kilometres. The country is founded upon the principles of a social democratic welfare society, and the Faroese Government, the *Løgting*, rules most internal affairs. Military defence, foreign policy, monetary affairs, the judiciary and citizenship remain the remit of the Danish Parliament as matters of legislation, administration and financial responsibility, which cannot be transferred to Faroese jurisdiction without constitutional negotiations about the Faroe Islands' position in the Kingdom of Denmark (Overtagelsesloven, 2005, Statsministeriet, n.d.). Following the Home Rule Act of 1948 and the Takeover Act of 2005, all other juridical affairs can be transferred upon Faroese request, and in 2018 the Faroese Government took over family affairs, meaning that abortion legislation was now solely under Faroese rule.

The current Faroese abortion legislation dating from 1956 is an amendment, which repealed the Danish abortion legislation from 1937. The Danish state amended its abortion act again in 1959, before it was repealed in 1970 and replaced in 1973 with the so-called law on “*fri abort*”, referring to abortion on-demand<sup>3</sup>. Greenland, also a self-governing country in the Danish Kingdom, adopted the Danish State's changes to the abortion legislation, whereas the Faroese Government chose to retain the 1956 legislation. Even though abortion legislation was under Danish jurisdiction until 2018, Danish laws have not been implemented in the Faroe Islands without Faroese request and require separate registration, technically allowing the Faroese Government to legislate in all internal affairs (Sølvará, 2003). The takeover of legislation is therefore primarily administrative and removes the requirement for the Danish Government to legally prepare the formal implementation of Faroese legislation.

Nonetheless, the planned takeover in 2018 drew intense scrutiny of Faroese abortion legislation already in 2017. Local and international media, the public and politicians have had ongoing debates about Faroese abortion legislation and discussions are concerned with whether it is time for the Faroese Government to amend the abortion legislation — and if so, in what direction. The first step towards liberalising the law was taken, when the Minister for Justice, Bjarni Káráson Petersen, in spring 2024 presented to Parliament a bill similar to the Danish law of 1973.

The Faroe Islands has been addressed as an *exception* among the Nordic countries (í Skorini et al., 2022), where the lack of reproductive rights, such as abortion, highlights that the Faroe Islands diverge from Nordic norms in this area (Hermannsdóttir, 2023; Nolsøe, 2023). Scholars have referred to the Faroe

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<sup>3</sup> Danish rhetoric on abortion is epitomised by the idiom *fri abort*, an abbreviation of the term *den frie abortret* (literally: the free abortion right). While on-demand abortion does not reflect the idiosyncratic and ideologic nature of the Danish term, we will refer to “*fri abort*” as abortion on-demand in this article.

Islands as in between tradition and modernity (Gaini, 2013; Hayfield, 2020) and in a transition (Gaini, 2011; Gaini & Nielsen, 2020). Nevertheless, when it comes to abortion, the global political situation points to factors at play beyond mere tension between modernity and tradition. Abortion legislation restrictions and anti-abortion rhetoric are currently seen even in areas of the global community where, until recently, they would not have been expected (Datta, 2021).

As changes in reproductive rights legislation reverberate globally, it is important to examine what limits the arguments and ability of international organisations to advocate for abortion rights as part of our human rights. As this special issue of Fróðskaparrit underscores, it is relevant to dissect the public debate concerning the implementation of human rights principles in national legislations and how this implementation is countered locally. Both in order to acknowledge the friction between international law and national concerns and how it is maintained or can be reduced. We argue that the convergence of bodily autonomy, in the form of abortion rights, and national autonomy, in the form of political sovereignty, is and will remain a contested issue. This requires constraints regarding argumentation about abortion as a human right to be clarified, however, it does not mean that international public discussions on abortion should be curtailed solely on the basis that it is a discussion pertaining solely to the Faroe Islands.

This article contributes to this theme by analysing and discussing the political conflict of Faroese abortion rights, and how international criticism is muted by references to national autonomy. This discussion further illustrates the contested nature of the concepts of autonomy in human rights discussions of sexual and reproductive rights. We examine how the notion of a Faroese right to national autonomy intersects with the central concept of bodily autonomy in human rights discussions in an attempt to answer the questions considered in this article: Why do arguments from international critics of the Faroese situation seem to fall short when addressing the right to bodily autonomy? How has international criticism been silenced and – to anticipate our argument – why are bodily versus national autonomy considered incompatible ideals?

The outline of the article is as follows: First we present our methodological approach of concept-oriented criticism focusing on the convergence of national and bodily autonomy discourses (Jasinski, 2001). We then elaborate on the conflict in this conceptual dyad and analyse four incidents where Faroese, Danish and international politicians or institutions engage in criticism of the Faroese abortion rights situation. Our discussion then expands on how the right to autonomy is a central site of conflict in international deliberation of abortion rights. We argue that the emphasis on national autonomy by Faroese representatives and expressions of respect for these, show how the discourse of respect for national autonomy outweighs bodily autonomy.

## **National autonomy versus bodily autonomy: concept-oriented criticism as a methodological framework**

As we emphasised in the introduction, the position of the Faroe Islands as a self-governing, but not autonomous, country is a central aspect of international consideration of the Faroese abortion rights situation. *National autonomy* is, as we will emphasise in our analysis, a governing discourse in Faroese politics, and one half of the conceptual dyad we focus on in this article. The other being *bodily autonomy* as a central concept in human rights and abortion rights discussions.

Our approach to the analysed material is that of *concept-oriented criticism* (Jasinski 2001), which is a central analytical strategy within rhetorical criticism (Roer, 2014). In this critical paradigm, our approach begins with an interest in how the concept of *the right to autonomy* is manifested discursively and is made meaningful throughout the fragments of discourse we analyse:

“What I want to refer to as conceptually oriented criticism ... proceeds...through a process of abduction which might be thought of as a back-and-forth tacking movement between text and the concept or concepts that are being investigated simultaneously” (Jasinski, 2001, p. 256).

We therefore move between different examples of discourses engaging the concept of autonomy as either national or bodily: between political debates, institutional documents and public comments from representatives, as well as the theories establishing what meaning and consequences these concepts have. This interaction between concept, case and theory is the central procedure in concept-oriented criticism, and it also bridges our, the authors, disciplinary foundations within rhetoric, anthropology and law. Jasinski emphasises the convergence between rhetorical and ethnographic principles of theoretical application through Clifford Geertz’ discussion of the function of theory in ethnographic anthropology; “‘theoretical precepts,’ he [Geertz] writes, ‘attain meaning only as they are vibrated against the particular case and are instantiated in an explanation of it’” (Jasinski, 2001, p. 257). We thereby move between theoretical precepts as they are discussed in academic literature and how they are presented in public discourse, to demonstrate how abortion as a human right can and is being contested in reference to national autonomy outweighing bodily autonomy.

The analysed discourse was selected based on several factors. The four incidents we focus on, which gave rise to the analysed artefacts, reflect four different situations in which the Faroese abortion situation was discussed:

- Political debates: In 2003, Danish MP Naser Khader engaged the Faroese abortion debate through political debate and newspaper comments, which resulted in a backlash from Faroese politicians and organisations.
- Radio discussions: In 2017-18 the impending Faroese takeover of the abortion act occasioned a series of radio broadcasts, where journalists

interviewed Faroese and Danish politicians on what could be done about the current situation.

- The global human rights context: In 2015 and 2021, the UN's CEDAW Commission published its periodic reviews.
- The Nordic welfare context: In 2021 the Nordic Council of Minister's Welfare Commission added the Faroese abortion situation to its agenda, but chose not to continue to focus on the issue.

These examples reflect different relationships and levels of debate: Danish politicians voicing critique, journalists voicing critique, human rights bodies voicing critique and Nordic forums for cooperation voicing critique. We have organised our analyses chronologically to demonstrate the progression of how notions of autonomy are discussed and include quotes, which illustrate the conflict between national and bodily autonomy most clearly.

### **Discursive conflicts**

In this section we will analyse the convergence of discourses of bodily and national autonomy in the selected examples of discourse. The scope of bodily autonomy is the question at hand, and how this central concept within discussions of reproductive rights is countered with arguments regarding national autonomy. To illustrate this discourse, we begin with a response to international criticism in the Faroe Islands.

#### ***Faroese outrage: the impertinence of Danish criticism***

In 2003-4 Faroese abortion legislation reached the Danish political agenda and was discussed in Danish media for the first time. On the 20<sup>th</sup> of March 2004, Danish MP Naser Khader published an article titled "Fogh's feeling for fundamentalism" in the newspaper *Berlingske Tidende* where he criticises then Danish Prime Minister, Anders Fogh Rasmussen, for his so-called "hypocrisy" (Khader, 2004). According to Khader, Faroese politics expressed religious fundamentalism without facing Danish criticism, and he questioned if the lack of a Danish stance on the Faroese abortion legislation was "an expression of silent acceptance?" (Khader, 2004). Fogh Rasmussen had in his New Year's Address the previous year stated that in Denmark politics and religion do not mix, and women's and children's rights should not be set aside by reference to the Quran or Bible. Khader's charge of hypocrisy was based on an apparent double standard of only reacting when the fundamentalism in question was Islamic, and not Christian, which Khader considers abortion rights to be an example of. The alleged double standard could, in Khader's wording, be summed up as "When Muslims repress women, it is discrimination. When Christians do it, it calls for inclusivity" (Khader, 2004).

The article can be considered an elaborated version of an implicit critique Khader had posed in a series of § 20-questions<sup>4</sup> to the Danish Minister of Justice, Lene Espersen. This series of questions and replies is one of the few formal political debates on Faroese abortion rights in the Danish parliament, since the Faroe Islands retained the 1956 law instead of following Denmark's norm regarding abortion legislation (Khader, 2004). By asking what mandate the Danish Government has for interference in Faroese legislation, and what distinguishes this situation from any other where human rights are at stake, Khader drew attention to an apparent conflict between alleged Danish political power and the reluctance to use it.

After Khader's article in *Berlingske Tidende*, other Danish politicians broached the topic. Together with the women's rights organisation *Kvindeligt Selskab* (En. Female Society), the spokesperson for gender equality for *Socialistisk Folkeparti* (En. Green Left), Kamal Qureshi, organised a fundraising event to provide financial aid to Faroese women who travel to Denmark to seek abortion care (Johansen, 2004). Both Khader's and Qureshi's actions were criticised by Faroese politicians and organisations in subsequent interviews and articles. The chair of the *Kvinnufelagið í Havn* (En. The Women's Organisation of Tórshavn), Inga Ellingsgaard, said that "I don't like that outsiders interfere in this. It is a question we have to be able to handle ourselves...The possibility of an attitude change should have the Faroe Islands as its starting point, not Denmark" (Johansen, 2004). The then Faroese Minister for Health and Social Issues, Hans Pauli Strøm, called the initiative "impertinent, almost rude": "It is one thing to voice your opinion, it is something else to interfere actively. I don't like the principle that Kamal Qureshi is actively interfering in Faroese political matters" (Johansen, 2004). The response to Khader's questions and comments in the article was similar. Lisbeth L. Petersen from the Unionist Party repeats Ellingsgaard's point and adds that "It is unfortunate that Danish politicians interfere, but it is probably not wholly unavoidable" (Hansen, 2003). The leader of the Faroese Republican Party, Høgni Hoydal, argued that this was an occasion to transfer this particular political remit to Faroese jurisdiction (Hoydal, 2004).

The public debate resulted in a final § 20-question from Naser Khader to then prime minister, Anders Fogh Rasmussen, asking whether he was of the opinion that the Faroe Islands should amend its abortion legislation, "since it was old-fashioned and out of step with reality", and, if not, what the Government's stance on the matter was (Statsministeriet, 2004). Rasmussen's reply addressed the Danish Government's adherence to the current Danish abortion legislation, but underscored that the Danish Kingdom should have space for diverging policies "if these to a higher degree reflect the Faroese population's wishes and opinions" (Statsministeriet, 2004).

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<sup>4</sup> A § 20-question is a written question posed by an MP to a minister regarding their opinion on a matter and requires a written reply.

Faroese national autonomy hence trumps any obligation to support legislative change in the Faroe Islands. On the other hand, Rasmussen also used the occasion to underscore that cross-national deliberation was to be encouraged, as he stated that “expressions of opinion and open dialogue with respect for other people’s opinion are, in my opinion, a natural part of a modern Danish Kingdom” (Statsministeriet, 2004).

### ***Danish silence: Politicians avoiding the conflict***

Rasmussen’s statement has nevertheless not occasioned many Danish politicians to address the Faroese abortion rights issue. In 2018, international events gave Danish media an opportunity to revisit the Faroese situation, as the Irish population voted in favour of repealing the Eighth Amendment, which conferred rights on fetuses equal to those of pregnant people. In an episode of the broadcaster Radio24syv’s programme *55 Minutter* (En. 55 Minutes), host and journalist Tinne Hjersing Knudsen interviewed the Danish Minister for Equality, Eva Kjer Hansen, and directly questioned why Danish politicians take no action regarding the Faroe Islands, despite their willingness to react to reproductive rights changes elsewhere (Knudsen, 2018). The Irish referendum and legalisation of abortion had been celebrated by several Danish politicians, and Knudsen asked Hansen:

None of these women [i.e., Hansen’s politician colleagues] have been very keen on criticising the Faroe Islands for not having liberal abortion, so my question to you is, whether you are willing to criticise Faroese politicians for not giving women access to liberal abortion?” (Knudsen, 2018)

The explicit focus of Knudsen’s questioning was the comparable aspect of Danish politicians voicing critique of countries that restrict abortion rights, and applauding those who liberalise them, while never commenting on the Faroese situation. Eva Kjer Hansen’s reply presents her central argument, that the Danish Government’s policy is clear and is a sufficient signal to the Faroese Government, which oversees Faroese legislation: “I do not think that prevents us from stating our opinion on abortion, but it is the Faroese themselves who have to make the decision” (Knudsen, 2018). In principle, Hansen makes a straw-man argument by refuting the argument that Danish politicians should and can legislate in the Faroe Islands, instead of responding to Knudsen’s actual question that focuses on critique. Knudsen then asks even more directly, which results in the following dialogue:

Knudsen: Hmm, but can’t you just criticise the Faroe Islands for not having liberal abortion?

Hansen: Well eh, just as I am a supporter of liberal abortion, and indeed a woman’s option to choose, I am happy to say that to those

from Malta, and those from Northern Ireland, and those from the Faroe Islands. But we cannot just go in and decide. It is the Faroe Islands that must make this decision, and I actually think that we are quite clear in saying that we think it is a right that women should have.

Knudsen: I do not think I have heard anyone from the government say that it is problematic, or in any way criticise the Faroe Islands for not having liberal abortion?

Hansen: Yeah well, I am not really sure what you are angling for, because, eh, because I think we are clearly saying what our opinions on abortion are, but at the same time that it is a decision you have to make in the Faroe Islands, and I think exactly that in comparison to Ireland and by commending the result they have got, and being happy about it, I am indirectly expressing that they should have that discussion in the Faroe Islands —

Knudsen: But why can't you do it directly then?

Hansen: Well, it does not change the fact that I cannot decide the rules, not in Poland, nor Malta, but I can appeal to the politicians to have the discussion, and see what rules are in effect and encourage the Faroese politicians to reevaluate whether or not they think it would be good for women to have that opportunity. (Knudsen, 2018)

Hansen here avoids Knudsen's argument by construing her motive as implying that Danish politicians should "go in and decide", and breach Faroese autonomy, even though the question is about why Hansen does not act rhetorically. Hansen thus frames her reluctance to criticise as an expression of respect for Faroese democracy, despite the absence of any immediate encouragement of anything else, and she and Knudsen technically agree that verbal criticism or advocacy is due. Knudsen then mentions a Faroese source, also interviewed in this episode of *55 Minutter*, who appeals to Danish politicians to "criticise the Faroese politicians because they, [the abortion rights movement Frítt Val], are seeking some support. Are you going to do that?" (Knudsen, 2018). Knudsen thus emphasises that the silence Danish politicians, such as Hansen, claim is appropriate, clashes with a call on the part of Faroese abortion activists for vocal support. Again, Hansen skews Knudsen's motive, and claims that:

What I think you are looking for is for me to go in directly and approach it — something that is an internal Faroese affair and where the Faroese are to make this decision, and you will not get me to do that, because I want to show respect for self-rule in the Faroe Islands. That does not affect the fact that my opinions on the right to abortion, they are pretty clear and that I am happy to encourage the

politicians to have that conversation, maybe even now in the light of the discussion in Ireland, and it ending with a very clear result. And I hope that there is a change around abortion in the Faroese set of rules, but it is they themselves who have to make that decision. (Knudsen, 2018b)

This example of an interview illustrates Hansen's evasive strategy and the lack of a clear stance on whether it is appropriate to comment on Faroese issues. Hansen acknowledges the timeliness of discussing the Faroese abortion legislation following the result of the Irish referendum but does not acknowledge that she and her fellow members of parliament do not publicly discuss the Faroese abortion law. In our discussion of the right to autonomy as a central site of conflict, we will focus on politicians who address the Faroese abortion rights situation to illustrate how some representatives manage to navigate the complex discourse of Faroese autonomy.

### ***International discussion of bodily autonomy: CEDAW's critique***

The CEDAW Commission's reports on the Danish Kingdom mention Faroese abortion legislation in both 2015 and 2021. In both reports, the abortion issue is listed under 'Health', with a section in bold issuing direct recommendations. In the 2015 report:

31. The Committee notes that the legislation on abortion in the Faroe Islands does not allow for the same access to abortion services by women there as is available to women in Greenland and mainland Denmark. The Committee is concerned that the geographic isolation of the Faroe Islands may lead to situations in which women or girls seeking a termination of pregnancy there may be subject to unnecessary risks or are disadvantaged compared with women and girls in mainland Denmark and Greenland.

32. [T]he Committee urges the State party to review its position on abortion in the Faroe Islands, with a view to ensuring that women and girls there have the same access to safe and legal abortion services as women and girls in mainland Denmark. (UN, 2015a, p. 8) (original emphasis and font)

When it comes to critiquing the abortion legislation in the Faroe Islands, the report from 2015 focuses on the islands' isolated geographical position. This geographical isolation is then linked to a question of discrimination against women and girls in the Faroe Islands in comparison to women and girls in Denmark and Greenland. The primary argument does not revolve around a right to autonomy/freedom based on the CEDAW provisions, but rather material/geographical constraints to exercising the same rights as other women and girls in the Kingdom of Denmark.

Urging the State party, in this case Denmark, to consider its role in ensuring that women and girls in the Faroe Islands enjoy the same access to safe and legal abortion care as women and girls do in Denmark invites questions about the means Denmark has for affecting the Faroese abortion rights situation. As we have presented above, Danish politicians claim no mandate to comment on the Faroese situation to any degree. An exercise in “consider(ing) its role” is what Danish political deliberation of Faroese abortion legislation has boiled down to since at least 2003, and a “role” seems to be something the State Party does not consider itself to have.

In its 2021 report, the CEDAW Commission comments that:

(d) The possibility of criminalisation of women in the Faroe Islands seeking abortion and not enjoying the same access to sexual and reproductive health services, including to safe abortion and post-abortion services, as women in Denmark and Greenland, causing some women in the Faroe Islands to travel to Denmark for an abortion or to purport to be severely mentally ill so as to be unable to care for a child.

(...)

(d) Remove punitive measures for women seeking abortion and consider amending the abortion law in the Faroe Islands, which dates back to 1956, and passing an abortion law that provides equal access to safe and legal abortion and post-abortion services for women in the Faroe Islands, as in Denmark and Greenland, especially in cases of complications resulting from unsafe abortions. (UN, 2015a, p. 12) (original emphasis and font)

Six years later, the 2021 report slightly alters focus and addresses the issue of punitive measures that women and girls (and also third parties) in the Faroe Islands could face, since abortion is criminally sanctioned in the Faroese penal code. The CEDAW Commission recommends a removal of punitive measure, and specifies in the report’s introduction that Denmark is the state party in question, but who should enact this? The Danish State, which the report is addressed to, or the Faroese Government, which controls legislation? In 2021, unlike in 2015, the situation was that the Faroese Government had taken over abortion legislation as now de jure under Faroese legislation and administration, but control over legislation was already de facto in Faroese hands, as clarified in our introduction. The response from Denmark included the previously quoted comment that “cultural differences” and “the subsequent fact that Danish laws such as the Law on Abortion did not reflect the Faroese society” are grounds for the Faroe Islands taking over legislative power on the matter (UN, 2020).

CEDAW’s concerns regarding abortion rights in the Faroe Islands are in the reports expressed in different arguments, which refer to inequality between

women and girls in the Kingdom of Denmark and the risk of punishment for receiving or administrating abortion care. Despite the validity of these concerns, the lack of clarity around how this call on the Danish State should affect the Faroe Islands complicates how this document can legitimate further influence on the Faroese situation. This we also see as a factor in how Nordic institutions react, which we turn to now.

***The limits of Nordic deliberation: The Nordic Council's critique and retreat***

One of the institutions that reacted to these comments was the Nordic Council's Welfare Committee. In April 2021, the Committee had discussed the Faroese abortion rights situation and declared that it would organise a meeting with invited institutions, experts and UN representatives to discuss further steps. Committee Chair Bente Stein Mathisen stated that:

We respect Faroese self-governance while urging the Faroe Islands to do something about the legislation so that it is in accord with the commitments made in relation to the UN Convention on the Rights of Women (Jensen, 2021)

At the subsequent meeting, a majority vote decided to not pursue the matter further. Not present at the meeting was the Faroese Minister for Social Affairs, who presides over abortion legislation. She declared to the Nordic Council that the Ministry did not acknowledge that the Faroe Islands was in breach of the CEDAW Convention. In a written document, the Minister for Social Affairs, moreover, referred to "the fact that the case is considered to be an internal matter of the Faroe Islands and thus not one for the official Nordic co-operation" (Jensen, 2021). Again, Bente Stein Mathisen commented and emphasised the Nordic Council's respect for Faroese national autonomy:

The Nordic Council has respect for the Faroe Islands' self-government and has listened to the wish of the committee's Faroese members that the Faroe Islands handle this themselves. I see our committee in the Nordic Council as a platform where cases that affect Nordic citizens can be addressed so that politicians can learn from and motivate one another across national borders. We are pleased that we can contribute to initiating a renewed dialogue on the abortion legislation, which we hope the Faroe Islands will continue internally. But it is a complex matter, and the majority has decided not to let the case proceed under our auspices (Jensen, 2021).

In both comments Bente Stein Mathisen underscores the Nordic Council's respect for Faroese self-government. Upon Faroese request, the legitimacy of urging the Faroese Government to amend the Faroese abortion legislation so that it complies with CEDAW is removed in acceptance of the claim that "the Faroe

Islands handle this themselves” (Jensen, 2021). As we have stated previously, the means of the Nordic Council to urge the Faroe Islands do not qualify as interventions in Faroese legislation. We would argue that “official Nordic cooperation” could in this case be seen as facilitating a forum for deliberating the norms of Faroese reproductive and sexual rights policy and law, but the Faroe Islands is able to reject this and continue without further commentary from global institutions.

International law and conventions are open to broad interpretation when it comes to abortion legislation, but in this case the Faroe Islands acts in breach of conventions such as The European Human Rights Convention, ICCPR and CEDAW (í Stórustovu & Østergaard, 2024, pp. 95–96). As Tóra í Stórustovu and Ragnhild Petursdóttir Østergaard state, the exceptional position of the Faroe Islands, exemplified by its sovereignty over abortion legislation without the status of the state party addressed in reports, causes “ineffective accountability which weakens the protection of human rights” (í Stórustovu & Østergaard, 2024, p. 110). Í Stórustovu and Østergaard also emphasise that:

The CEDAW Commission’s remarks on the Faroese abortion legislation have by no means been implemented and this lack of accountability cannot be excluded from the causes for why a law in breach of human rights has existed for so long (í Stórustovu & Østergaard, 2024, p. 111)

The Danish replies to the list of issues in the CEDAW Commission’s Ninth Periodic Reply implies the limit to what Danish officials can do:

Recognizing the cultural differences between Denmark and the Faroe Islands and the subsequent fact that Danish laws such as the Law on Abortion did not reflect the Faroese society, the Faroe Islands have assumed the legislative power over this matter (UN, 2020)

The reply evokes the apparent difference between Faroese and Danish society as explanation for the transfer of abortion legislation to Faroese jurisdiction.

Similar comments have been made in 2003 by Minister for Justice, Lene Espersen, in a reply to MP Naser Khader’s § 20-questions about whether the Danish Government was willing to secure abortion rights for Faroese women equal to the rights of Danish women. Espersen’s reply was that such decisions were made in cooperation with the Faroese Parliament, and that it was her view that “this is especially important in such *sensitive* and *culturally determined* matters as abortion” (Statsministeriet, 2003) (our emphasis). Abortion in a Danish context, despite its status as an issue that politicians are willing to define as a key national issue (Ingrisch & Jeppesen, 2017) and chastise other countries for their failure to secure (Tanholdt & Rosenkilde, 2022), is framed as a cultural

matter preventing Danish and international intervention of any kind. We claim that the human rights principle of *the right to freedom/autonomy* in this case becomes a central site of conflict, where concerns for national autonomy exceed bodily autonomy.

It is evident from these examples, as well as the continued status quo of limited international critique of the Faroese situation, that the nationalist strain of discourse emphasising the Faroese right to exert political autonomy dominates the abortion rights discussion. In the next section we will discuss the conceptual conflicts and links between bodily and national autonomy, reproductive rights discourses and their role in nation building.

### **The right to autonomy as a central site of conflict**

Despite the fact that the Faroe Islands' status as a former colony is contested (Pedersen et al., 2017), and not acknowledged by the UN, it is relevant to emphasise the prevalence of postcolonial discourse when addressing the intra-national critique of lacking abortion rights. Faroese nationalist discourses entail many themes. A central one is criticism of the Danish Faroese relationship. Political scientist Rebecca Adler-Nissen terms this a 'postcolonial discourse' in Faroese political debates: "the postcolonial references in the Faroese independence discourse address what is seen as a problematic silencing of the imperial legacy in Danish politics" (Adler-Nissen, 2014, p. 66). Adler-Nissen's interviews with Faroese political leaders show how the Danish Kingdom (and the notion of a realm) is more or less openly criticised, and as one Faroese party leader puts it: "the notion of Realm ... is created to mask a colonial relationship" (2014, p. 65).

Rebecca Adler-Nissen has analysed diplomatic relations between the Faroe Islands and Denmark, and points to what she calls the risk of postcolonial embarrassment as a reason for Danish hesitance to comment on or intervene in Faroese matters (Adler-Nissen, 2012, 2014). Based on interviews with Faroese politicians and participant-observation in the Danish Foreign Ministry, Adler-Nissen traces a dual discourse of framing the Faroe Islands as postcolonial and Denmark as postimperial. In this setting, Adler-Nissen frames the dialogue as a form of *strategic face-work*, in reference to Erving Goffman's use of dramaturgy, to explain how diplomacy involves all parties' adherence to decorum in order to avoid political embarrassment (Adler-Nissen, 2012, 2014; Goffmann, 1967). The risk of facing embarrassment from performing imperialism (discursively or politically) and the need for strategic face-work in diplomatic relations is, according to Adler-Nissen, a determining factor in how the Danish response to problematic Faroese practices and policies is formed today. To be called out as a colonial power is a risk the Danish Government avoids. Instead it takes a neutral or supportive stance towards the Faroese tradition of pilot whaling, even if

international conventions can be interpreted as an obligation on the global community to advocate for change (Adler-Nissen 2012; 2014).

We claim that the same can be said for abortion rights. This is supported by our analysis of how Danish politicians avoid questions from journalists, which illustrates the convergence of discourses on autonomy and the normative restriction of international consideration of Faroese issues such as abortion rights.

Departing from the turbulence in the reproductive political landscape in the Faroe Islands, we have drawn on the analysed incidents to explore the argumentative strategies of postcolonial discourses as halting the critique of Faroese abortion rights. By extension, we have pointed out how notions of national autonomy overrule bodily autonomy, even when there is no actual risk of breach of national autonomy. This distorted balance of autonomy is further enabled by the complexity of arguing for bodily autonomy as a human right.

### ***The (in)compatibility of human rights and abortion rights***

Abortion falls under the overarching category of reproductive and sexual rights. The first formulation of reproductive rights as a protected interest of its own was in the Proclamation of Teheran as the Final Act of the UN Conference on Human Rights (UN, 1968). The proclamation's wording was repeated in the Convention on Ending all forms of Discrimination Against Women and underscores the fundamental "right to decide freely and responsibly on the number and spacing of children" (CEDAW, 1979).

CEDAW is a central human rights convention, which explicitly mentions reproductive rights, and frames them as a venue for establishing equality between sexes and groups of women, while emphasising women's role in procreation as a risk of discrimination (UN, 1979)<sup>5</sup>. Further discussions and establishments of reproductive rights as human rights emphasised their status as already incorporated in universal and inalienable rights such as the right to life, the right to health, the right to respect for private and family life and the right to freedom/autonomy (Cook & Dickens, 2003; í Stórustovu & Østergaard, 2024; Roseman & Reichenbach, 2009). As abortion statistics globally underscore, preventable maternal morbidity and mortality are a continuing problem, which emphasises the argument for abortion care as necessary to secure the pregnant person's fundamental right to life and health (Grépin & Klugman, 2013).

Regarding the right to life, the UN Human Rights Committee decided in 2014 to author a new General Comment on Article 6 (where it is stated that every human being has the inherent right to life) of the International Covenant on Civil and Political Rights (ICCPR). This decision was based on reviews of member

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<sup>5</sup> CEDAW has been ratified but not incorporated by Denmark and thereby the Faroe Islands, which means that it is binding, but cannot be enforced, leaving formal criticism as the only means of action.

states' compliance and recent legal developments regarding abortion rights (*K.L. vs Peru*, 2005; Zilli, 2019). An initial draft of the general comment included perspectives on the right to life for “the unborn” (UN, 2015b), which according to Livio Zilli, senior legal adviser & UN Representative at the International Commission of Jurists (ICJ), “surprised, disappointed and seriously concerned” the ICJ (Zilli, 2019, paragraph 5). Zilli’s reflection on the cause of this inclusion is that “[i]t is possible that by mentioning the unborn, etc., the rapporteurs wanted to find some way to be seen to be taking into account the many interventions they had received from anti-abortion groups” (Zilli, 2019, paragraph 7). This was ultimately considered in conflict with the principle of human rights, which apply to those born, and the final comment relating to the ICCPR Article 6 on the right to life became:

- 1) safe legal and effective access to abortion is a human right protected under the ICCPR, including, in particular, under the right to life;
- 2) preventable maternal mortality and morbidity constitute violations of the right to life; and
- 3) the right to life under the ICCPR begins at birth. (Zilli, 2019, paragraph 21)

General Comment 36 to the ICCPR thereby makes the central argument that abortion rights are a human right and the right to life does not extend to fetuses.

The existence of legislation that restricts the right to abortion is not a violation of CEDAW or ICCPR per se (í Stórustovu & Østergaard, 2024). It should also be emphasised that the current Faroese legislation already secures the right to life by permitting abortion when there is a risk to the life or health of the pregnant person. On-demand abortion lies outside the scope of the human rights principle of the right to life. On-demand abortion reflects the principle to be secured by CEDAW referred to as “the right to decide freely and responsibly on the number and spacing of children” (CEDAW, Article 16 (e)), and this principle reflects the human rights principle of the right to freedom and autonomy. The Faroese situation illustrates how abortion legislation can secure the right to life, without securing the right to autonomy. And because of the Faroese geopolitical situation, where a primary discourse on autonomy refers to the national right to self-determination, these two notions of freedom coincide and present as incompatible.

### ***The limits on bodily autonomy***

Framing the issue of reproductive rights including abortion as a major human rights issue has nevertheless been pivotal to the current ability of the global community to question and examine problematic practices in contexts outside of their own.

The concept [of reproductive and sexual rights] emphasizes a comprehensive approach to reproduction, integrating the various fragmented healthcare needs relating to the reproductive process, and puts women at the centre of the process, recognizing, respecting and responding to the needs of women rather than only to those of mothers (Lebret & Rothmar Herrmann, 2020, p. 6).

Reframing reproductive and sexual rights as a question of healthcare, family life and privacy and the right to life is central. So is expanding whom it concerns to not only mothers, but also those who choose not to become parents, and these aims warrant contemporary efforts to improve access to abortion. However, as Laura Reichenbach and Mindy Jane Roseman point out, despite these reformulations and claims to rights, the world continues to be a place where “women do not exercise control over their bodies” (Roseman & Reichenbach, 2009, p. 3). Abortion as a human right is still a controversial and highly contested issue.

As current developments on abortion legislations underscore, national, religious and other cultural differences affect how abortion rights are interpreted and implemented in the individual countries, which have ratified UN conventions (Lebret & Hermann, 2020). And notably, politicians and reproductive policies in general play a fundamental role in defining and expressing the ideology of nations (Anthias & Yuval-Davis, 1989). As Rosalind Petchesky points out: “abortion is the fulcrum of a much broader ideological struggle in which the very meanings of the family, the state, motherhood, and young women’s sexuality are contested” (1986, vii).

Anthropological and rhetorical scholarship on the politics of reproduction has explored, in depth, the relationship between citizenship, politics, and reproduction (Ginsburg & Rapp, 1991; Stormer, 2015). Working from the concept of *reproductive governance*, scholars have illuminated this relationship through ethnographic insight (Morgan & Roberts, 2012). As an example, Rhoda Ann Kanaaneh has shown how Palestinians living in Israel have children as a national duty and a means to fight oppression of the Palestinian people by the Israeli Government (Kanaaneh, 2002). Nathan Stormer has, inversely, from an institutional perspective analysed how abortion rhetoric has become a site for deliberation of wider social issues facing the US-American nation state, which attests to how abortion can be a macro-political analytical prism for exploring national ideologies (2015). As such, reproduction and reproductive citizenship should be thought together with broad meanings of *nation-building* (Richardson & Turner, 2001; Turner, 2008). We therefore argue that reproductive politics in the Faroe Islands must be acknowledged as tied to a question of nation-building and, as we have demonstrated with the above artefacts, are interconnected with the contested issue of national autonomy in the Faroe Islands.

From a critical perspective, we argue that the identified intersection of discourses embedded in Faroese abortion rights and legislation are a central problem that needs addressing if international criticism is to be made salient for those in charge and those affected. We propose that a joint focus on how, on the one hand, reproductive citizenship (Richardson & Turner, 2001; Roseneil et al., 2013; Turner, 2008) is rhetorically performed and negotiated and how, on the other hand, the Faroese position and status as a country is discussed is necessary for understanding situations like these, where national statehood trumps social citizenship (Marshall, 1950).

### ***The rhetorical performance of reproductive citizenship in the Faroe Islands***

This leveraging of international versus national concerns is a contestable element in national and international discussions. This article has emphasised the rejections of human rights pertaining to abortion rights, amongst others, as driven by the nationalist strain of governance regarding reproductive and sexual rights.

What we argue is firstly, that the institutions engaging the Faroese abortion rights situation acknowledge that nationalist concerns historically have trumped the rights of individuals, and individual rights as freedoms have been a byproduct rather than a goal of reproductive regulation:

The regulatory history of reproductive rights is explained by some inherent tensions; reproductive regulation was originally imagined as a population control tool as opposed to an autonomy project of women. However, the tension between the two perspectives persists in current case-law and law making (Lebret & Hermann, 2020, p. 7)

Though reproductive rights historically and continuously are a result of reproductive governance rather than belief in universal and inalienable personal and human rights, the general encouragement to protect bodily autonomy will fall short when faced with the historically powerful discourse of national autonomy in the Faroe Islands.

Secondly, the apparent breach of national autonomy rests on a problematic sense of what self-government should be. The incidences we have presented in our analysis are not examples of violations of Faroese autonomy. As long as the Faroe Islands does not qualify as a UN member state, the only human rights critique in a UN context of the abortion legislation will be channelled through Denmark. Voicing critique across national borders is not the same as violating national autonomy; rather it is the opposite, where the means used express recognition that any legislative or direct political action is unavailable.

What we are left with is a rhetorical performance where the reproductive rights of the population are eclipsed by a problematic notion of statehood. We argue that the conflict at hand must be addressed by acknowledging that citizenship is much more than the right to define some form of national

community. It is most vitally a framework for understanding individual rights and obligations in a number of settings, and as reproductive governance continues to define what reproductive rights are and can be, reproductive citizenship must be addressed as a civil concern, which includes respect for our fundamental human rights. The right to bodily autonomy and to decide freely and responsibly on the number and spacing of children is a human right, and in order to secure it, the global community must consider competing notions of autonomy and how they interact and intersect.

### **Concluding remarks**

In this article we have analysed how international criticism of the Faroese abortion rights situation is muted or rejected by reference to Faroese national autonomy. We have conducted a concept-oriented criticism of how reproductive rights are rhetorically negotiated, in a convergence between discourses of bodily and national autonomy. We have used the current turbulent state of the global abortion landscape as a point of departure, and focused on how Faroese abortion legislation is engaged by international institutions and politicians. All this in order to demonstrate how discourses of autonomy are instrumentalised to refute international critique.

We have also pointed out that a human rights perspective on abortion rights is limited when concerning on-demand rights, if the focus is solely on the principle of the right to life, rather than the right to autonomy or freedom. But in either case, it leaves the argumentation vulnerable to competing notions of autonomy, which in the Faroese case is evident since national autonomy reflects a postcolonial political discourse.

The right to retain national reservations against international treaties is a valid argument and norm in local implementation of human rights perspective. However, as rhetorical performances of citizenship and statehood, Faroese discourses of autonomy demand further scrutiny since the forms of international critique, which we have emphasised, do not breach Faroese legislative sovereignty. While reproductive rights can be secured globally, we emphasise the necessity of acknowledging these as the byproduct of reproductive governance and its link to nation-building efforts. This in order to lessen the difficulty of securing personal rights for women and other reproductive citizens in the global contexts of national politics.

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contribution to research on Faroese abortion legislation from a human rights perspective.

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