ETHOS

Reference document on the histories of minoritisation in Austria, Hungary, Netherlands, Portugal, Turkey and the United Kingdom

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About ETHOS

ETHOS - Towards a European THeory Of juStice and fairness, is a European Commission Horizon 2020 research project that seeks to provide building blocks for the development of an empirically informed European theory of justice and fairness. The project seeks to do so by:

a) refining and deepening the knowledge on the European foundations of justice - both historically based and contemporarily envisaged;
b) enhancing awareness of mechanisms that impede the realisation of justice ideals as they are lived in contemporary Europe;
c) advancing the understanding of the process of drawing and re-drawing of the boundaries of justice (fault lines); and
d) providing guidance to politicians, policy makers, advocacies and other stakeholders on how to design and implement policies to reverse inequalities and prevent injustice.

ETHOS does not merely understand justice as an abstract moral ideal, that is universal and worth striving for. Rather, it is understood as a re-enacted and re-constructed 'lived' experience. The experience is embedded in firm legal, political, moral, social, economic and cultural institutions that are geared to giving members of society what is their due.

In the ETHOS project, justice is studied as an interdependent relationship between the ideal of justice, and its real manifestation – as set in the highly complex institutions of modern European societies. The relationship between the normative and practical, the formal and informal, is acknowledged and critically assessed through a multi-disciplinary approach.

To enhance the formulation of an empirically-based theory of justice and fairness, ETHOS will explore the normative (ideal) underpinnings of justice and its practical realisation in four heuristically defined domains of justice - social justice, economic justice, political justice, and civil and symbolic justice. These domains are revealed in several spheres:

a) philosophical and political tradition,
b) legal framework,
c) daily (bureaucratic) practice,
d) current public debates, and
e) the accounts of the vulnerable populations in six European countries (the Netherlands, the UK, Hungary, Austria, Portugal and Turkey).

The question of drawing boundaries and redrawing the fault-lines of justice permeates the entire investigation.

Alongside Utrecht University in the Netherlands who coordinate the project, five further research institutions cooperate. They are based in Austria (European Training and Research Centre for Human Rights and Democracy), Hungary (Central European University), Portugal (Centre for Social Studies), Turkey (Boğaziçi University), and the UK (University of Bristol). The research project lasts from January 2017 to December 2019.

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INTRODUCTION

The material contained in this document comes from ETHOS WP5 on justice as lived experience, and more specifically from the work conducted for Deliverable 5.2 on institutionalised political justice and (mis)recognition.

For this joint publication, research teams were asked to draft national case studies detailing state attempts to respond to minority claims for political recognition and justice, and the context for these responses given the national history of state formation and bordering.

For each national case study researchers wrote a history of minoritization in their respective countries, its relation to state formation and to how states institutionalised claims for political justice. The material produced for this historical context was extremely rich and an important context for other ETHOS workpackages as well as a resource for other researchers interested in the historical roots of minoritisation in the UK, Turkey, Portugal, Netherlands and Austria. To keep the national case studies conducted as part of the D5.2 work focussed and retain this important material, WP5 co-ordinators requested that national teams present directly Roma relevant material only for their case study, and edited the additional material to produce this reference document.

We do not attempt to make a particular theoretical point and have not developed an overarching narrative for this case study material. Nevertheless, it provides useful background information for the analysis of inclusion/exclusion processes in selected European countries.

THE UNITED KINGDOM

Bridget Anderson and Julia Morris

The British state's creation and treatment of certain populations as minorities needs to be understood within two major historical trajectories. The first is the creation of the United Kingdom of Great Britain, which is comprised of four 'nations': Scotland, Wales, England and Northern Ireland. There are also other claims to separate identity and language but no constitutional status (Manx, Cornwall, Channel Islanders). The history and identity of the United Kingdom and the dominance of (Southern) England is by no means settled. The second trajectory is Britain's history as a global colonial power, deeply implicated in the slave trade and Empire. These two are inter-related – England's conquest and colonization of Ireland began in the twelfth century, in 1541 Henry VII proclaimed himself 'King of Ireland', and by 1603 England controlled all of Ireland. Minoritization of the Roma is inter-related with both these trajectories.

THE CREATION OF THE UNITED KINGDOM

Before the establishment of the United Kingdom, religious minorities were both established and distinguished by law. For example, Jewish people could be taxed directly by the King without the permission of Parliament. Gypsies or Romany were first recorded in British history in 1502 and were expelled in 1530. Controls over the movement of vagabonds and the poor had a particular impact on Gypsies. The United Kingdom was established in 1707 when the parliaments of Scotland and England were joined together. Among the pressures acting on Scotland was access to English colonial trade following the disastrous and highly costly failure of Scotland to establish a colony in Central America. A further factor was the very first Aliens Act of 1705 forbidding the import of Scottish products and requiring all Scottish nationals to be treated as Aliens, making estates in England owned by Scots alien property. There was a provision that this legislation would be suspended if Scots agreed to enter negotiations on the proposed union with England. The year 1707 was also a key date in imperial expansion in India as it marked the death of Aurangzeb, the decline of Mughal power, and the ascendance of the East India Company. England's relation with its 'Celtic fringe' is troubled. The incorporation of Scotland and Wales into the territory of the union established some principles of minoritisation including the principle of linguistic assimilation and domination (when 'universal' education was introduced in Scotland in 1872 it contained no provision for the teaching of Scots or Gaelic; the Welsh language was prohibited in schools for many years) but also toleration and later encouragement of non-English second languages, as long as primacy of English was established (eg the 1988 Education Reform Act stipulated that Welsh be taught in almost all Welsh schools). Importantly the hegemony of English has been accompanied by the incorporation not the erasure of subordinate nationalities.[1]

BRITAIN'S COLONIAL POWERS

After 1857 the British Empire distinguished between the settler and the native, and established a system that codified populations into different 'natural' groups as part of its system of indirect rule, establishing 'a racialized and tribalized historiography, a bifurcation between civil and customary law'.[2] Critical to this was the distinction between races (non-natives) and tribes (natives), between the indigenous and the foreign. The native was a product of geography rather than history. All races were governed under civil law, while tribes were governed

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[1] FELDMAN, David, 2012. Conservative pluralism and the politics of multiculturalism. In YUVAL-DAVIS, N. and MARFLEET, P. *Secularism, racism and the politics of belonging.* London: Runnymede, 10-13.

[2] MAMDANI, Mahmood, 2012. *Define and Rule: Native as political identity.* Johannesburg: Wits University Press.

under separate customary laws. Races were governed under imported European law. Even if they were culturally different 'with races the cultural difference was not translated into separate legal systems. Instead it was contained, even negotiated, within a single legal system and was enforced by a single administrative authority. But with tribes, the case was the opposite: cultural difference was reinforced, exaggerated, and built up into different legal systems, each enforced by a separate administrative and political authority'. However, both 'races' and 'tribes' were ultimately British subjects. In effect, write Dummett and Nicol, 'there was a system of separate nationalities within the British empire though there was only one name for them all: the British Subject'.[3] Thus, as with English domination, conservative pluralism was a vehicle for British rule.

From the mid-19th century pluralism also became the response to religious minorities in the United Kingdom. The state offered Catholics and Jews financial support for their activities, including education:

> The implications pluralism are doubly conservative, for it not only carries a strategy of governance but also has weighty implications for the communities who are incorporated in this way. For example, when the British State acknowledged religious minorities it also bolstered the claims of figures and institutions to represent those minorities.[4]

The British Government, with very little demand for labour within the territory of the United Kingdom and facing growing challenges to imperial rule, promoted common British subjecthood, but the governments of white settler societies wanted to restrict entry of some British subjects. The process of minoritization begins with the legal codification of distinction, which in the case of Black and Minority Ethnic communities has its roots in colonialism.

Colonising European states, with Britain amongst the foremost, were concerned with constructing an 'internal' racial homogeneity and the constitution and maintenance of whiteness, but also, and relatedly they were equally concerned with the management and regulation of heterogeneity outside of the 'motherland'. As Radhika Singha puts it in her description of identification practices in colonial India: 'One way of conceptually subduing the social flux unleashed by British paramountcy was to build up ethnologies distinguishing between those who provided good material for productive, revenue-generating subjects from those whose way of life was inimical to this endeavour'.[5] Natives were classified, hierarchised, placed in their territories, differentiated by culture and race, personality and intelligence, declared 'indigenous', 'tribal' and 'urban' with ethnicities tied to territories.[6]

Colonialism was key to the creation of 'race' and racial categories and whiteness 'at home' was intimately and inextricably related to blackness 'abroad'. Empire helped to 'whiten' the urban poor and the process of minoritization contributed to the production of majoritization though the category of whiteness. Colonialism was key to the creation of whiteness as a *national* identity.

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[3] DUMMETT, Ann and Andrew NICOL, 1990. *Subjects, Citizens, Aliens and Others: Nationality and Immigration Law.* London: Weidenfeld and Nicolson, 77.

[4] FELDMAN, David, 2012. Conservative pluralism and the politics of multiculturalism. In YUVAL-DAVIS, N. and MARFLEET, P. *Secularism, racism and the politics of belonging.* London: Runnymede, 11.

[5] SINGHA, Radhika, 2000. Settle, Mobilize, Verify: Identification Practices in Colonial India. *Studies in History* 16(2), 151-198, 154.

[6] MAMDANI, Mahmood, 2011. The Invention of the Indigène. *London Review of Books* 33(2), 31-33; NZONGOLA-NTALAJA, Georges, 2002. *The Congo from Leopold to Kabila: A People's History.* London: Zed Books.

Thomas Carlyle infamously compared Irish peasants and English seamstresses and English working classes to 'negroes'.[7] The Irish, early subjects of English domination, exemplify the contradictions and tensions within ideas of race and its relation to mobility and to colonialism. Ireland was a space where the colonial imaginary was both domesticated and exported. The skin pigmentation of the Irish may have been 'white', but they did not own proper whiteness, and were depicted as feminised, lazy and disorganised. Anne McClintock suggests that 'the iconography of domestic degeneracy was widely used to mediate the manifold contradictions in imperial hierarchy – not only with respect to the Irish but also to the other 'white negroes': Jews, prostitutes, the working-class, domestic workers, and so on, where skin colour as a marker of power was imprecise and inadequate'.[8] Certain groups, like the Irish and Jews, have moved in and out of whiteness. Whiteness is graduated, with internal boundaries between the more and less white. This is not to deny that those who are 'white' however degraded, are nearly always salvageable in contrast and relation to those who are not, but it indicates the motility and contingency of racial categories.

This fixing of racial/ethnic identities was intricately related to the control of mobility within imperial territory. Huge efforts were expended to assert orderly movement within territories, ordering people through systematic ethnographies and controlling them accordingly. The case of Indians in Natal is illustrative of the ways in which imperial governance that posited the equality of all subjects, irrespective of the colour of their skin responded to these challenges. Natal had been declared a British colony in 1843, but under the fundamental condition that 'there should not be in the eye of the law any distinction or disqualification whatever, founded on mere difference of colour, origin, language or creed'.[9] It had been granted 'responsible government' in 1893. The Immigration Restriction Act of 1897, passed by the government of Natal and not reserved by London (unlike similar legislation attempted by New South Wales in 1888), appeared the perfect solution. It explicitly emulated the American Immigration Restriction Act of 1896 (later vetoed by President Cleveland) which had required all immigrants to be literate in order to facilitate the exclusion of people from east and southern Europe where there were very low levels of literacy. Thus the Act did not discriminate on paper, but in practice the consequences were grave for particular populations. Similarly the 1897 Act had the appearance of not distinguishing between free Indians and Europeans. Qualifications for entry were based on property (first the holding of £25, and later a restriction on paupers and those likely to become a charge on the public purse, or, in the words of the 1662 Poor Relief Act 'likely to be chargeable'), and on knowledge of a European language. The immigration entry officer was free to choose the European language in which he could expect competence, so an 'Indian' English speaker for example, could be presented with a form in German. In practice this meant that Europeans were able to enter and that non-indentured Indians found it extremely difficult, but the law could not be said to be distinguishing between people on account of their colour. Effectively there was no discrimination in the letter of the la, but, in practice, most Europeans were eligible to enter Natal, while virtually all non-indentured Indians were not. This was possible while retaining British subjecthood. The Prime Minister of Natal informed the legislature:

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[7] CARLYLE, Thomas, 1849. Occasional Discourse on the Negro Question. *Fraser's Magazine for Town and Country*, London, XL.

[8] MCCLINTOCK, Anne, 1995. *Imperial Leather: Race, Gender, and Sexuality in the Colonial Contest*. New York: Routledge, 53.

[9] Despatch 13th December 1842 from Lord Stanley to Sir George Napier quoted in Encyclopedia Britannica, 1911 (19), 260.

> It never occurred to me for a single minute that (the Act) should ever be applied to English immigrants… Can you imagine anything more mad for a Government than that it should apply to English immigrants? The object of the bill is to deal with Asiatic immigrants.[10]

The element of discretion with respect to which European language to require was explicitly created to enable individual officers to discriminate. It was not that miscreant officials wilfully or inadvertently misinterpreted an otherwise even handed objective approach. The letter of the law was 'raceless' but in effect the law created a racial category that could be refused entrance, and its consequences and its implementation were 'race-ful'. There were many other examples of self-governing colonies passing legislation that made negatively racialised subjects. In 1901 for instance the Parliament of Australia passed the Immigration Restriction Act, based on the 1897 Natal Act. This later formed the basis for the infamous White Australia policy.

Attention to the government of mobility within the British Empire reveals that British subjects were racialised and that ownership of property and education was an important mechanism for managing the contradiction between claims for the equality of subjects on the one hand and racist hierarchies on the other. The question of property ownership and its relation to race reminds us that 'race' is constructed and contested not a natural category. It is a 'constellation of processes and practices'[11] not a simple empirical description of skin colour. The laws governing the movement of subjects within the Empire were an important means of manufacturing racial minorities, and the category was related to class.

THE ROLE OF LAW

The role of the law (and not only immigration law) in the creation and hardening of the conceptualisation and categorisation of race points to the importance of the relation between race and the nature of the state. It is relatively uncontroversial to hold that 'modern states – particularly those in Europe – were built on notions of shared identity and values, constructed or otherwise'.[12] But the important question is how race and ethnicity mapped and maps on to these notions (i.e. imaginings) of 'shared identity' and nationhood. The fiction of race became an ordering principle at a time of expanding social mobilities, when state forms other than the national were competing with nation states for dominance.[13] The imagining of an age of homogeneity, and the writing out of what is now perceived as racial difference, is a part of that construction. This writing out is countered by 'emphatic foregrounding', that effectively emphasises extraordinariness. Evidence of Asians or Africans living in pre-twentieth century Britain is frequently treated with surprise. The discovering of an African woman's body in York buried in Roman times, the discovery of a gene linking the people of North Wales to the Eastern

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[10] DUMMETT, Ann and Andrew NICOL, 1990. *Subjects, Citizens, Aliens and Others: Nationality and Immigration Law.* London: Weidenfeld and Nicolson, 19.

[11] FRANKENBERG, Ruth, 2001. The Mirage of an Unmarked Whiteness. In Birgit BRANDER RASMUSSEN, Eric KLINENBERG, Irene NEXICA and Matt WRAY, eds. *The Making and Unmaking of Whiteness.* Durham: Duke University Press, 73.

[12] PHILLIPS, Trevor, 2011. The three I's: Immigration, integration and Islam. In Michal MCTERNAN ed. *Exploring the Cultural Challenges to Social Democracy: Anti-migration populism, identity and community in an age of insecurity.* London: Policy Network, 47.

[13] BALIBAR, Étienne, 1991. *Racism and Nationalism.* In Étienne BALIBAR and Emmanuel WALLERSTEIN eds., *Race, Nation, Class: Ambiguous Identities.* London: Verso, 89.

Mediterranean, the expulsion of the Moors from Elizabethan England,[14] these are rediscoveries of an old, heterogeneous past. The development of the modern state 'depended on the ideological work of manufacturing sameness' and this sameness was built on ideas of race.[15]

THE BRITISH NATIONALITY AND STATUS OF ALIENS ACT
In 1914, the British Nationality and Status of Aliens Act defined in statute who was to be considered a British subject (up until then it had been principally enshrined in common law). Subject status was still to be based on allegiance, and acquisition was by birth within the Commonwealth, or by descent within one generation in the legitimate male line (this was later changed to indefinite transmission in a 1922 Act). However, it also allowed for differential treatment between subjects by British Dominions, allowing that legislatures and governments should not be prevented 'from treating differently different classes of British subjects' (British Nationality and Status of Aliens Act, 1914: 26(1)). Nevertheless, members of the Commonwealth were urged to comply with a Common Code, and not to undertake substantial amendments without prior consultation.[16] The year 1914 also saw the Aliens Restriction Act, emergency legislation directed at 'enemy aliens' and giving the Home Secretary powers to deport aliens and to control their movements in British territory. This emergency legislation was renewed and expanded for over fifty years until the 1971 Immigration Act.

In contrast, the movement of subjects to the United Kingdom was unregulated but not numerically significant for the first half of the twentieth century. For many years most of the movement was from the Old Commonwealth, particularly Canada, and what movement there was from the New Commonwealth to the United Kingdom was largely temporary and for the purpose of study.[17]

THE BRITISH NATIONALITY ACT OF 1948
After the Second World War large scale immigration from the New Commonwealth was simply not imagined and it was anticipated that the demand for labour that was a consequence of reconstruction was to be met by the European Voluntary Worker Scheme. The primary concern of the colonial office was not that New Commonwealth British subjects would move to the UK but rather the maintenance of British subjecthood in the face of the moves of former colonies to independence.[18] This concern was precipitated in 1946 by the Canadian government's passage of the Canadian Citizenship Act which made Canadian citizens British subjects by virtue of their Canadian citizenship, meaning the relationship between sovereign and subject was now mediated and

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[14] In a fascinating paper, Bartels examines the official letters issued by Queen Elizabeth between 1596 and 1601, and the move from deporting particular and specified groups of 'blackamoors' as an expedient response to the Anglo-Spanish conflict (mutual exchanges of prisoners of war for instance) to the presentation of a racialised threat to the people of England. See BARTELS, Emily Carroll, 2006. Too Many Blackamoors: Deportation, Discrimination, and Elizabeth I. *SEL Studies in English Literature* 46(2), 305-322.

[15] COMAROFF, John, 1997. Reflections on the Colonial State, in South Africa and Elsewhere: Fractions, fragments, facts and fiction. *Bulletin of the Institute of Ethnology, Academia Sinica* 83, 1-50, 16.

[16] HANSEN, Randall, 2000. *Citizenship and Immigration in Post-war Britain.* Oxford: Oxford University Press, 40.

[17] The exception to this limited movement was the migration from Ireland to England, which had for centuries been a source of cheap migrant labour. As early as 1594 Queen Elizabeth I had attempted to force 'men of Ireland' (many of whom were vagrants) to leave or be imprisoned and Irish labour was to prove crucial for the expansion of the railways and the canal system in the eighteenth century. See DUMMETT, Ann and Andrew NICOL, 1990. *Subjects, Citizens, Aliens and Others: Nationality and Immigration Law.* London: Weidenfeld and Nicolson, 45.

[18] HANSEN, Randall, 2000. *Citizenship and Immigration in Post-war Britain.* Oxford: Oxford University Press.

derivative. It was clear that, if British subjecthood were to survive, it needed to be re-thought in the light of the independence of former colonies. This lay behind the formulation of the British Nationality Act of 1948.[19]

The Act divided the people of the world into six groups. Two of these were not subjects: Aliens and British Protected Persons. Three groups were subjects: Citizens of the United Kingdom and Colonies (CUCK), Citizens of Independent Commonwealth Countries (CICC) and the residual group of British subjects without citizenship. The Irish British once again were treated as exceptional – an instance of 'fuzzy frontiers'[20] – and they could become subjects should they so request. The concern was not with immigration, but with 'maintaining the formal indivisibility of British subjecthood'.[21] While it has been characterised as 'one of the most generous and liberal immigration policies in the world'[22] this was not an immigration policy per se, but a nationality policy with immigration consequences. It was the British Nationality Act that effectively continued 'open borders' rather than a migration policy per se. The migration that was anticipated (and valued) was migration from the Dominions, which had formed the bulk of internal movement in pre-War years. Freedom of movement for New Commonwealth citizens was imagined as being of minor importance and largely temporary. It was viewed as a small price to pay to preserve British subjecthood and the Commonwealth even as independent Commonwealth countries adopted their own national citizenship.

From 1948 until 1962 what we now call 'migration' to the UK from colonies was in fact the mobility of subjects.[23] As with the immigration of Eastern Europeans post 2004, the movement of people resulting from nationality/citizenship rights was considerably greater than anticipated. Like European migration today, because it was based on nationality/ citizenship, it proved difficult to counter without dismantling the edifice of nationality/ citizenship that it was built on, though there were explorations of ways in which 'coloured people' could be prevented from migrating.[24]

COMMONWEALTH IMMIGRANTS ACT
This was the nettle that was finally grasped in 1962 with the Commonwealth Immigrants Act. In post-war social practice 'immigrant' was already a racialised term, but this was the first time in law that the term 'immigrant' was used to refer to British subjects as previously its application had been restricted to Aliens. The Act did not change the architecture of British subjecthood in that all those formerly considered subjects continued to be subjects, but it did restrict rights of entry and settlement in the UK to Citizens of the UK and Colonies only. In effect, it recognised different classes of British subjects by differentiating passports. The Act distinguished

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[19] HANSEN, Randall, 1999. The Politics of Citizenship in 1940s Britain: The British Nationality Act. *Twentieth Century British History* 10(1), 67-95.

[20] COHEN, Robin, 1994. *Frontiers of identity: The British and the Others.* Harlow: Longman.

[21] HANSEN, Randall, 2000. *Citizenship and Immigration in Post-war Britain.* Oxford: Oxford University Press, 69.

[22] FREEMAN, Gary, 1994. Can liberal states control unwanted migration? *The Annals of the American Academy of Political and Social Science* 534, 17-30.

[23] This is not to say that there weren't attempts to limit migration from the New Commonwealth when it became apparent that this was to be larger than expected. The first discussion about limiting rights of access of some British subjects was only a year after the BNA, and interestingly, although dealing with West Indian migration, the initial focus of concern were Canadian members of the Communist party who had been fomenting the London Dock Strike of 1949.

[24] DUMMETT and NICOL, 1990.

between CUKC passports issued under the authority of the government of Britain, whose holders were not subject to immigration controls, and CUKC passports issued under the authority of a colonial government, whose holders were British subjects but whose British passports did not guarantee entry to the United Kingdom.

Work permits, which were held by Aliens, were subject to a strict labour market test but CUKC colonial subjects and CICCs were given preferential access to the labour market. They were eligible to enter to work in the UK under a quota system with employment vouchers. Employment vouchers were available without a labour market test in three categories: a pre-arranged job, special skills, or where there were specific domestic needs for unskilled workers. However, eligible CUKCs could be refused entry on the grounds of mental illness, criminality and national security. These restrictions were developed from restrictions previously experienced by aliens, and this Act marked the first time that some British subjects were dealt with in ways similar to aliens. It also marked the beginning of the merging of the Alien and colonial subject into the immigrant, and from then on nationality and immigration began to develop as discrete areas of law.

The 1962 Act was modified in 1968 when the Labour government restricted the entry of Kenyan Asians, fleeing the increasingly repressive policies of Kenyatta. They were CUKC passport holders, and their passports were issued by the High Commissioner, that is the UK's direct representative in independent Kenya. This meant that they had a right to enter the UK, a right that they were exercising in increasing numbers. In 1968, specifically as a response to this, the UK passed a bill that introduced a requirement that those who held the right passport need also to be born, or to have a parent or grandparent born, in the United Kingdom. In 1971 this was described as 'patriality' and served as a mechanism to facilitate the entry for white Australians, Canadians and New Zealanders but not other Commonwealth citizens.

The 1971 Act also introduced 'settlement', giving non-citizens with certain types of immigration status the right to remain indefinitely in the UK. This meant they had the right to live and work without restrictions, and the right to apply for citizenship. Indeed, for most non-citizens, a period of settled status became a condition of citizenship acquisition. Under certain circumstances settled migrants could still be deported and settled status could be revoked, so ultimately they were still, to use De Genova's phrase, 'deportable'.[25] However, the status indicates an important acknowledgement of belonging or membership that is not entirely congruent with legal citizenship.[26]

FROM THE 70S TO TODAY

From the late 1970s, debate shifted from concern with immigrants alone to encompass ethnic minorities. This transition carried with it the recognition that it was not only immigrants but, increasingly, English-born minority groups who lived with the burdens of racial discrimination and cumulative social and economic disadvantages. The rise of multiculturalism in education was, in part, a reflection of this perception. Famously, the Swann report of 1985, which outlined the outcome of an Inquiry into the Education of Children from Ethnic Minority Groups, presented multiculturalism as a vision for a modern Britain, not just for its education system. It disavowed assimilation and called both for 'a framework of commonly accepted values, practices and procedures', and for

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[25] DE GENOVA, Nicholas, 2002. Migrant 'Illegality' and Deportability in Everyday Life. *Annual Review of Anthropology* 31, 419-447.

[26] SAWYER, Caroline and Helena WRAY, 2014. *EUDO Citizenship Observatory Country Report: United Kingdom.* Florence: European University Institute; RYAN, Bernard, 2010. *Integration rules in immigration and nationality law: The case of the United Kingdom*. Nijmegen: Radboud University Centre for Migration Law.

ethnic minority communities to be assisted 'in maintaining their distinct ethnic identities'.[27] At the same time, a number of Labour-run cities and boroughs adopted ethnic monitoring and took positive action to increase the ethnic minority share of council staff as a way of addressing the consequences of racism and racial disadvantage. For many years, groups and organizations which formed to contest racism, such as the Commission for Racial Equality and the Institute for Race Relations, focused these 'new ethnicities' - immigrants among whom most had entitlement to British citizenship, as they and their families originated in what were once called NCWP (New Commonwealth countries and Pakistan). In 1981, a British Nationality Act deprived many of them of this entitlement, while the character of migration to the UK started to change, becoming closer to that of other European countries in which rights were withheld even from those able to gain legal entry. At the same time, organizations such as the Joint Council for the Welfare of Immigrants and a greatly expanded Refugee Council developed specifically to deal with issues raised by new patterns of migration.

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[27] ANTHIAS, Floya and Nira YUVAL-DAVIS, 1992. *Racialized Boundaries: Race, Nation, Colour and Class and the Anti-Racist Struggle.* London: Routledge.

TURKEY

Mehmet Ertan

The main document for Turkey's minority regime that established its fundamental premises is the Lausanne Treaty (signed on 24th July 1923). The Articles 37-45 of the Treaty determining the protection of minorities and minority rights regulate the status of minorities in Turkey. The treaty recognizes the non-Muslim communities of Turkey as legal minorities. In other words, being non-Muslim is the legal condition for being attributed a minority status in Turkey. Article 38 of the Lausanne Treaty assumes that Turkey undertakes measures to guarantee the complete protection of life and liberty of all inhabitants of Turkey without distinction of birth, nationality, language, race, or religion. The Article 39 states that Turkish nationals belonging to the non-Muslim minorities would enjoy the same civil and political rights as Muslims. In this regard, the treaty grants minority groups the right of political and civil equality, the right to establish religious educational and charitable institutions, to use their own languages, and to freedom of religion, travel and migration. To put it differently, the minorities are granted affirmative treatments in affairs of education and religious practices.[28]

Although the treaty does not mention any specific non-Muslim community and grants minority status to all non-Muslims, Turkey tends to restrict the scope of the minority rights only to the Armenians, the Rums (Orthodox Greeks of Turkey), and the Jews. Therefore, other non-Muslim communities such as the Assyrians, the Chaldeans, the Nestorians, and the Protestants are excluded from Turkey's minority rights regime. For example, despite the minority rights guaranteed by the Lausanne, the Assyrians cannot establish their own schools. In this context, the gap between the legal framework of the Lausanne Treaty recognizing non-Muslims as minorities and the daily exercise of minority rights limiting minority status to the Armenians, the Rums, and the Jews is one of the most debatable issues of Turkey's minority regime.[29]

Although the minority protection agreements signed after the First World War were based on race, language, and religion while defining the minority groups, the basic criteria of Turkey's minority regime has been merely religion. More interestingly, despite the secular characteristic of the new Turkish Republic, the religious identity (being non-Muslim) became the cornerstone of Turkey's minority regime. In other words, Turkey's citizenship conceptualization was indirectly rested on Muslim identity. The connection between minority position and non-Muslim identity politically derived from Turkey's attempt to limit the number of minority groups. The founders of the Republic aimed to excuse the bulk of the population from the internationally protective nature of human right conceptualization. Due to the deportation of Armenians in 1915 and the exchange of population between Turkey and Greece in 1923, only 2.8 per cent of the population was non-Muslim in Turkey in 1927.[30] Therefore, in a country with a Muslim population of vast majority, the recognition of non-Muslims as legal minorities enabled the founders to imagine a 'Turkish nation as a classless, coherent, and corporate body.'

Additionally, there is a strict historical and ideological continuity between the Ottoman *millet* system and minority/majority classification of Turkish Republic. The *millet* system firstly classified the population as Muslims and non-Muslims. Regardless of their ethnicity, the Muslim groups were counted as a compact religious unit

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[28] Baskın Oran, 'Lausanne Barış Anlaşması' in (Ed.) Baskın Oran, *Türk Dış Politikası 1 (1919-1980)*, İstanbul: İletişim Yayınları, 2004, 225-231.

[29] Baskın Oran, *Türkiye'de Azınlıklar*, İstanbul: TESEV Yayınları, 2004, 53.

[30] Fuat Dündar, *Türkiye Nüfus Sayımlarında Azınlıklar*, İstanbul: Doz Yayınları, 2000, 57.

based on Sunni version of Islam. They were the privileged members of the dominant *millet* (*Millet-i Hakime*). On the other hand, the non-Muslim communities were categorized as the Orthodox Rums, the Gregorian Armenians, and the Jews. According to the *millet* system, these three non-Muslim communities were not forced to convert to Islam but allowed to live within their self-governing religious community while paying the *cizye* and the military exemption tax.[31] In this usage, self-governing religious community meant that each religious community had rights to conduct their religious education and to execute their religious law under the authority of their religious leadership.

There is, therefore, a continuity between Turkish minority regime and the Ottoman *millet* system. Against the background set by the *millet* system, the Turkish Republic associated minority rights with non-Muslim *millets* of the prior Ottoman regime including Rums, Armenians, and Jews. On the other hand, unlike the Ottoman *millet* system, Turkish minority regime has considered the non-Muslim minorities as individual members of the republic, not of their religious community. In this way, Turkish citizenship regime has attempted to eliminate the inferior status of non-Muslims under the umbrella of state citizenship rights. However, under the shadow of the historical institutions, the non-Muslims have not been able to integrate into Turkish citizenship regime as equal participants. All the constitutions of the Turkish Republic (Article 88 of the Constitution of 1924, Article 54 of the Constitution of 1961, and Article 66 of the Constitution of 1982) associate the identity of Turk with the status of Turkish citizenship without any distinction of ethnicity or religion. However, in practice, Turk as a national identity could not become a supra-identity that has contained other sub-identities. Moreover, Turk as a supra-identity involves religious connation as much as ethnic. As Bernard Lewis writes, 'a non-Muslim may be called a Turkish citizen, but never a Turk.'[32]

In this regard, 'having drawn a strict relation between Turkish nationality and Turkish citizenship, the non-Muslim minorities were included in the latter category, but excluded from the former, that was a privileged status reserved for the Turkish-Muslim people.'[33] As a consequence of the path-dependency of Turkey's minority regime of the Ottoman millet system, the notion of minority as non-Muslim has often been associated with unequal treatment. The gap between legal equality (between minorities and citizens) and political/cultural inequality (between Muslims and non-Muslims) is the main problem of Turkey's minority regime.

Similar to the imagined unity of Muslims within the context of the millet system, Turkish citizenship regime has been based on indivisible unity of nation. As the Article 3 of the Constitution of 1982 states, '[t]he State of Turkey with its territory and nation is an indivisible entity.'

THE CONCRETE DISTURBANCES OF TURKEY'S MINORITY REGIME

As a consequence of the above-mentioned perception of minority, the political authorities frequently violated the minority regime set by the Lausanne Treaty. Despite the political and civil equality guaranteed by the Lausanne, the Law on Public Employment dated 1926 based public employment on the quality of Turkishness instead of Turkish citizenship. Consequently, it excluded the non-Muslim citizens from the state sector. Although

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[31]Efrat Aviv, *Millet System in the Ottoman Empire*, http://www.oxfordbibliographies.com/view/document/obo-9780195390155/obo-9780195390155-0231.xml

[32] Bernard Lewis, *Modern Türkiye'nin Doğuşu*, trans. Prof. Dr. Metin Kıratlı, Ankara: Türk Tarih Kurumu, 2007, 15.

[33] Ahmet İçduygu and B. Ali Soner, 'Turkish Minority Regime Between Difference and Equality,' *Middle Eastern Studies*, Vol.42, No:3 (May 2006), 454.

this law was amended in 1965, a study based on interviews with youth from minority groups indicates that being a state official has continued to be difficult for minorities in practice.[34]

A similar inegalitarian attitude was reflected in the practices of military recruitment during the World War II as well. Although Turkey remained neutral in the World War II, the number of the members of the Turkish armed forces was increased to 1.500.000, during the extensive mobilization to secure the national boundaries. In 1941 and 1942, the government called up the reserve soldiers that were composed solely of non-Muslims. These people were unarmed and were used as unpaid labor in tasks such as building roads or collecting garbage. In this period, the great majority of non-Muslim young population had to serve the army and some of them were recruited for a second time. It seems that, because the minorities were perceived as potential 'traitors,' the political authorities aimed to keep the non-Muslims from economic life during the war period and to control them politically within the boundaries of the army.[35] Both the Law on Public Employment and the practice of reserve troops demonstrate the unequal positions of Muslims and minorities within the context of public service.

In addition to the violations of political and civil equality principle, the property rights and educational rights of minority groups guaranteed by the Lausanne Treaty have been violated as well. Although the Article 40 of the Lausanne enabled minorities to establish foundations with financial autonomy, the Court of Cassation ruled that corporate bodies consisting of non-Turks would not be allowed to obtain immovable property. In 1936, all minority foundations were required to submit a declaration to the authorities listing their movable and immovable properties. After this declaration, the minority foundations acquired new properties; however, in 1974, the Court of Cassation limited the properties of 'foreigners' foundations to the list given by 1936 declaration. Therefore, the properties acquired by minorities after 1936 were considered illegal. State authorities returned these properties to the heirs of those who had donated them, and confiscated the properties if no suitable heir was found.[36] The verdict of the court was a clear violation of the property rights granted by the Lausanne Treaty.

Another violation of the minority regime granted by the Lausanne Treaty has occurred within the boundaries of educational rights. Although the Article 40 of the Lausanne Treaty enabled minorities the right to manage their educational institutions and religious services, the Ministry of National Education assigns every minority school a Turkish deputy head that supervises the education of students in harmony with Turkish culture. This procedure indicates the official distrust against the educational autonomy of minority groups.[37] Another symbolic violation of the educational rights of the minority groups was the closure of the Theological Seminary of Khalki in 1971 due to the closure of all private higher educational institutions.[38]

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[34] Yahya Koçoğlu, *Azınlık Gençleri Anlatıyor*, İstanbul: Metis Yayınları, 2004.

[35] Rıfat Bali, 'II. Dünya Savaşı Yıllarında Türkiye'de Azınlıklar I: Yirmi Kur'a İhtiyatlar Olayı,' *Tarih ve Toplum*, no: 179, (Spring 1998), 4-18.

[36] Yuda Reyna and Ester Moreno Zonana, *Son Yasal Düzenlemelere Göre Cemaat Vakıfları*, İstanbul: Gözlem Gazetecilik Basın ve Yayın, 2003, 88.

[37] Arus Yumul, 'Azınlık mı Vatandaş mı?' in (Eds.) Ayhan Kaya and Turgut Tarhanlı, *Türkiye'de Çoğunluk ve Azınlık Politikaları: AB Sürecinde Yurttaşlık Tartışmaları*, İstanbul: TESEV Yayınları, 2005, 93.

[38] Şule Toktaş and Bülent Aras, 'The EU and Minority Rights in Turkey,' *Political Science Quarterly*, Vol. 124, No: 4, (2009-10), 703, https://www.researchgate.net/publication/233682814_The_EU_and_Minority_Rights_in_Turkey.

The legal procedures of Turkey demonstrate that despite *de jure* rights, *de facto* practices prevent minorities from fully enjoying their legal rights. Not only legal procedures, but also civil campaigns and mass assaults against the minority groups reproduced structural inegalitarianism of Turkey's minority regime. For instance, 'Citizen, Speak Turkish' campaign, which was launched by a group of university students in 1928 with the aim of imposing the use of Turkish in public sphere, gained wide publicity in the 1930s. Although the Article 40 of Lausanne Treaty secured minorities' right to use their own language, the civil campaign aimed to discourage the minority groups to use the languages of their community in the public sphere.[39]

The contradictions between the legal framework of minority regime and political/historical baggage of the minority perception led to instances of mass violence against the minorities. In late days of June and the first days July of 1934, after the anti-Semitic propaganda of the Turkish press, the Jews of Çanakkale, Kırklareli, Edirne, and Tekirdağ faced a boycott of their businesses. The boycott was followed by physical attacks on Jewish-owned buildings and neighbourhoods. Although nobody was dead, nearly 15.000 Jews in Thrace fled to Istanbul. The Thrace Events appeared after the promulgation of a new settlement law, which divided the country into three zones. The Law on Settlement (1934) aimed to regulate demographic structure based on Muslim identity and closed the strategic regions of the country to non-Muslim people. In this context, despite the absence of an official document on the direct relations, the immigration of Jews from Thrace to Istanbul was in rapport with the goals of the Law on Settlement.[40]

The most comprehensive mass assault against non-Muslims appeared in September 6-7, 1955. After the state radio announced that a bomb attack had targeted the house in which Ataturk was born in the Greek city of Thessaloniki and a local newspaper spread out this news in Istanbul, the members of an association called 'Cyprus is Turkish' organized a public demonstration in downtown Taksim Square on September 6, 1955. Following this demonstration, the groups started to attack the places of business that belonged to the non-Muslims in Istiklal Boulevard. In a short while, the attack spread to non-Muslim neighbourhoods. Houses, shops, churches, and cemeteries of non-Muslims were vandalized. The attacks were brought under control on September 7, when the government proclaimed martial law in Istanbul, Ankara, and Izmir. According to an official source, 4,214 houses, 1,004 workplaces, 73 churches, 1 synagogue, 2 monasteries, 26 schools, and 5,317 other establishments such as factories and hotels were attacked. Turkish press reported that between 11 and 15 people were dead.[41]

The Wealth Levy of 1942 could be seen as a symbol of the problematic character of Turkey's minority regime, because it demonstrated how the general prejudices against the non-Muslim could penetrate into legislation. In 1942, the Turkish government introduced a Wealth Levy, which theoretically aimed to provide additional resources for the treasury under the war conditions and to prevent war profiteering. In practice, however, the tax targeted the perceived wealth of non-Muslim minorities. First, the taxpayers were classified into four categories as Muslims, non-Muslims, foreigners, and converts; then, higher rates were imposed on non-Muslims. Many taxpayers, who could not pay taxes, sold their properties. Furthermore, those who were unable to pay the

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[39] Çağatay Okutan, *Tek Parti Döneminde Azınlık Politikaları*, İstanbul: Bilgi Üniversitesi Yayınları, 2004.

[40] Erol Ülker, 'Assimilation, Security and Geographical Nationalization in Interwar Turkey: The Settlement Law of 1934', *European Journal of Turkish Studies* [Online], 7 | 2008, Online since 11 December 2008, Connection on 19 May 2017. URL : http://ejts.revues.org/2123.

[41] Dilek Güven, *6-7 Eylül Olayları*, trans. Bahar Şahin, İstanbul: İletişim Yayınları, 2006.

assessed amount were sent to labour camps established in Aşkale (a district in the remote corner of the Eastern Anatolia). Although 2% of the total population was non-Muslim in the early 1940s, 87% of the taxpayers of the Wealth Levy were non-Muslim. On the one hand, the Capital Tax became the peak of economic Turkification, because it resulted in an important transfer of capital from non-Muslims to Muslims. [42] At the same time, the Levy showed and reproduced the traditional duality between Muslims and non-Muslims rooted in Turkey's minority regime. The organized state violence of minority rights under the 'excuse' of war conditions led the non-Muslims' loss of confidence in the legal framework of the Lausanne commitments. [43]

TURKEY'S ACCESSION PROCESS TO THE EUROPEAN UNION AS A NEW COMPONENT OF TURKEY'S MINORITY REGIME

While the first census of Turkish Republic in 1927 had counted 2.8 per cent non-Muslim citizens, this figure fell to 0.8 per cent in 1965 and 0.0012 per cent in the 2000s. [44] The decrease in the number of non-Muslims, which homogenized Turkish society in terms of religious composition, is the most concrete outcome of Turkey's minority regime. The minority regime in the Turkish Republic, which has reproduced inequality between Muslims and non-Muslim, has not been able to set minority rights in a way to provide either political equality in citizenship status or positive discrimination for minorities. However, the conventional framework of Turkey's minority regime was challenged by Turkey's full membership process to the European Union (EU). [45]

In 1999, Turkey was recognized as a candidate state for accession to the EU. Turkey had to meet the requirements of Copenhagen Criteria for the full membership process. The Accession Partnership document prepared by the EU attributed an importance to the protection and promotion of cultural, linguistic and religious differences of minority groups. Therefore, Turkey's accession process to the EU has partly transformed official security discourse regarding ethnic and national minorities into a discourse of cultural plurality.

The EU progress reports frequently included calls for reform on the issues of protection of minorities and minority rights. During the monitoring process Turkey adopted 34 constitutional amendments in 2001 and 10 constitutional amendments in 2004. The constitutional amendments were supported with adjustment laws which made changes on the Law on Foundations, the Law on Associations, the Press Law and the Penal Code. The EU regulations of Turkey positively affected also the rights of the minority groups, which are Muslim, thus not legal minorities. In this regard, the restriction on the 'use of any language prohibited by law in expressing and disseminating ideas in print and broadcasting media and by printing houses and the press' was removed. Therefore, broadcasting in minority languages and Kurdish language was legalised. The amendments on the Law on Association enabled to form associations by with names that refer to cultures different from Turkish culture. Consequently, the formation of Alevi associations, for example, became possible. The amendments of the Law on Foundations overruled the above-mentioned verdict of the Court of Cassation in 1971 and allowed minority foundations to acquire and sell property with the permission of the General Directorate of Foundations. In

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[42] Ayhan Aktar, *Varlık Vergisi ve Türkleştirme Politikaları*, İstanbul: İletişim Yayınları, 135-244.

[43] İçduygu and Soner, 'Turkish Minority Regime Between Difference and Equality,' 460.

[44] Dündar, *Türkiye Nüfus Sayımlarında Azınlıklar*, 57.

[45] İçduygu and Soner, 'Turkish Minority Regime Between Difference and Equality', 461.

practice, however, the requirement of the permission of the directorate continued to make of reform attempts aiming to make it difficult for minority foundations to register their property.[46]

While the EU demands for the improvement of minority rights aimed to enlarge the scope of Turkey's minority regime beyond the framework established by the Lausanne Treaty, Turkey tended to meet the demand of the Copenhagen Criteria without totally changing its minority regime.[47] Nevertheless, the minority definitions and rights framed by the Lausanne Treaty became outdated, because the concern over minorities shifted from prevention of discrimination to the protection of minorities. While the competence of the conventional human rights approach for the protection of minority rights have been alleged, new standards for the minority rights have been introduced by the United Nations, the European Security and Cooperation Organization and the European Commission. Despite the improvements in Turkey's minority regime during the full membership process to the EU, the minority regime of Turkey still falls behind the international standards.[48] More importantly, the basic dilemma between legal equality and socio-political inequality still remains.

THE NON-MINORITY MINORITIES OF TURKEY

Thus far, the legal boundary of Turkey's minority regime has been scrutinized through the legal minorities, namely the non-Muslims. As the Turkish citizenship regime is constitutionally defined on the basis of Turkish identity which has a religious as much as connotation, being Turk nationally and Sunni religiously has become de facto prerequisite for benefiting from full citizenship rights. Therefore, Turkey's exclusive citizenship regime has always created its own sociological minorities who legally remain within the citizenship regime, but are minoritized sociologically. In this regard, two cultural groups have appeared as a challenge to the uniform image of citizenship based on Turkish-Muslim identity: the Kurds and the Alevis.

The history of the Kurdish question is older than the history of the Turkish Republic; however, the citizenship regime of Turkey has a special role in debates on the Kurdish question. Although the Turkish identity that is the core of Turkish citizenship is theoretically asserted to be political - without reference to specific ethnic or religious identities - Turkish citizenship in practice is based on being an ethnic Turk and speaking Turkish. Therefore, Kurds are practically excluded from the Turkish citizenship regime although they are Muslims. Because Kurds have a 'we-feeling' stemming from their demographic density in specific geographical areas, their common language, and their shared history, they have the capacity to struggle against exclusion.[49]

In the 1960s, the Kurdish question in Turkey was discussed around the underdevelopment of the Eastern region of Turkey where the Kurdish population has predominantly lived. In the 1970s, the Kurdish question was evaluated as a national question within the lenses of self-determination right. Since the 1980s, the Kurdish question has always included references to the agents of the Kurdish national movement, including both the PKK (The Party of Kurdish Workers) and legal Kurdish political parties.[50] The basic objectives of the agents of the

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[46] Dilek Güven, *A Quest for Equality: Minorities in Turkey*, Report published by Minority Rights Group International.

[47] Toktaş and Aras, *The EU and Minority Rights in Turkey,* 711-713.

[48] Baskın Oran, 'The Minority Concepts and Rights in Turkey: The Lausanne Peace Treaty and Cureent Issues' in (Ed.) Zehra F. Kabasakal Arat, *Human Rights in Turkey*, Philadelphia: University of Pennsylvania Press, 2007, 50.

[49] Mesut Yeğen, 'Citizenship and Ethnicity in Turkey,' *Middle Eastern Studies*, 40:6 (2004), 62.

[50] Mesut Yeğen, *Son Kürt İsyanı*, İstanbul: İletişim Yayınları, 2011, 16.

Kurdish movement have changed in the meantime. Currently, the basic demands of the Kurdish movement are cultural and linguistic, and they involve the political recognition of Kurdish identity which includes right of education in the mother tongue, redefinition of Turkish citizenship without any reference to a national identity, and self-government right of Kurdish regions conceptualized as democratic autonomy.[51]

Although Kurdish question in Turkey demonstrates social capacity of existing Turkish citizenship regime – which includes the Kurds legally, but excludes them in practice, Kurds' distribution of population, which sociologically exceeds beyond the national boundaries of several countries including Turkey, Iraq, Syria, and Iran, internationalizes the status of Kurds. In this regard, the Kurdish question in Turkey is more than a minority question. The transformation of Kurdish movement's basic demand from education in mother tongue to democratic autonomy indicates how the characteristics of Kurdish question have evolved. While formulating the conceptualization of multicultural citizenship, Kymlicka categorizes three kinds of group-differentiated rights, namely, self-government rights of indigenous people, polyethnic rights of immigrant groups, and special representation rights for counterbalancing the historical exclusion that disadvantaged cultural groups experience.[52] Following Kymlicka, the Kurdish question in Turkey might be discussed around self-government rights of national groups instead of minority rights.

The Kurdish question has challenged the monist conceptualization of Turkish citizenship and other cultural groups have become visible in this context. In this regard, the Alevi question appears as another case, which has led to the questioning of Turkey's citizenship regime. The Alevis are members of the most populated non-Sunni religious/cultural group in Turkey. The population of the Alevis is estimated as one-sixth of Turkey's overall population. Despite the existence of an Alevi oriented party (namely the Unity Party of Turkey) between 1966 and 1980, and the limited numbers of periodicals addressing the community, the Alevis started to participate in the public sphere through an identity movement with references to a distinct Alevi identity only in the 1990s. The publication of hundreds of books and dozens of journals on Alevism, the establishment of dozens of Alevi associations as well as local and national Alevi radio and television channels, and increasing visibility of Alevis who presented their Alevi identity in the public sphere became the daily reflections of the Alevi movement.[53]

The Alevi associations as the main actors of the Alevi movement have formulated basic demands of the community. One of them is the abolition (or change in the status) of the Directorate of Religious Affairs. The Alevi associations believe that the existence of the Directorate, which only serves in Hanefi version of Sunni sect, violates the principles of neutrality of secular state in religious affairs. The other main demand is the abolition of compulsory religious courses in primary and secondary education, which impose Hanefi/Sunni beliefs on young students and thus violates freedom of conscience. Last main demand of the Alevis is the official recognition of *Cemevi* as houses of prayer.[54]

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[51] Cengiz Güneş, 'Political Reconciliation in Turkey: Challenges and Prospects,' in (Eds.) Cengiz Güneş and Welat Zeydanlıoğlu, *The Kurdish Question in Turkey: New Perspectives on Violence, Representation*, London: Routledge, 2013, 268.

[52] Will Kymlicka, *Multicultural Citizenship*, Oxford: Oxford University Press, 1995, 27-32.

[53] Aykan Erdemir, 'Tradition and Modernity: Alevis' Ambiguous Terms and Turkey's Ambivalent Subjects,' *Middle Eastern Studies*, 41:6, (2005), 940-941.

[54] Tahire Erman and Aykan Erdemir, Aleviler ve Topluma Eklemlenme Sorunsalı, in (Eds.) Ayhan Kaya and Turgut Tarhanlı, *Türkiye'de Çoğunluk ve Azınlık Politikaları: AB Sürecinde Yurttaşlık Tartışmaları*, İstanbul: TESEV Yayınları, 2005.

Unlike the Kurds, who demand to live as Kurd through official recognition of Kurdish identity, the Alevis in Turkey aim to integrate into socio-political life as equal members of the society. In other words, the Alevi movement mainly engages in political process by means of universal political concepts like citizenship and secularism instead of focusing on their particularistic cultural identity. On the one hand, the basic demands of the Alevi community require the transformation of state-religion relations in Turkey. On the other hand, the Alevis' desire to be like everybody else without denying their Alevi identity led them to organize on the basis of conceptualization of egalitarian citizenship.

Theoretically, the term minority is firmly related with the conceptualization of citizenship. According to the widely accepted definition given by F. Capatori, Special Rapporteur of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities, the term minority designates 'a group numerically inferior to the rest of the population of a state, in a non-dominant position, whose members – being nationals of the State- possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly a sense of solidarity, directed towards preserving their culture, traditions, religion or language.' [55] On the other hand, the citizenship determines the legal status of membership to a political community and attributes equal socio-political rights to its members. In this regard, positive rights, which are entitled solely to the minority groups, enable minorities to participate in socio-political life as equal citizens.

In contrast to the theoretical affiliation between the regimes of minority and citizenship, in the Turkish socio-political context minority status seems to be dissociated from citizenship status. As an 'Armenian citizen' states, 'I am confused about whether I am minority or citizen.'[56] Since the minority status could actually deprive non-Muslims of equal citizenship, the sociological minorities of Turkey reject the minority label for the fear of degradation. Hence, in the early 2000s the Kurdish movement demanded the recognition of Kurdish identity by affirming that Kurds formed a fundamental constituent of the Turkish Republic. In a parallel vein, when the Regular Reports of the EU in 2004 defined the Alevis as a non-Sunni minority group, the Alevi associations rejected the definition of the Alevis as a legal minority. They believed that the Alevis, as a fundamental component (*asli unsur*) of the Turkish Republic, could not be seen as a minority. As a result of the reactions of Alevi associations, the EU referred them directly as Alevis or indirectly as non-Sunni Muslim groups.[57] In this context, the basic dilemma of Turkey's minority regime, which is the contradiction between the legal equality of citizenship and the political inequality attached to the minority status, is internalized by the non-minority minorities of Turkey as well.

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[55] Quated by Naz Çavuşoğlu, *Azınlık Hakları*, İstanbul: Su Yayınları, 2001, 35.

[56] Yumul, 'Azınlık mı Vatandaş mı?' 87.

[57] Ali Çarkoğlu and Nazlı Çağın Bilgili, 'A Precarious Relationship: The Alevi Minority, the Turkish State and the EU,' *South European Society and Politics*, 16:2 (2011), 351-364.

PORTUGAL

Sara Araújo and Laura Brito

Portugal's independence dates back to the 12th century (in 1139 Portuguese monarchy adopted the title 'King of Portugal' and in 1143 the title was recognised by the neighbouring kingdom and the Holy See). It is stated in official reports that 'Portugal is one of the oldest European states, with some nine centuries of uninterrupted existence (including a period of sixty years, from 1580 to 1640, of royal union with Spain). The Portuguese borders were basically traced in the 13th century, and are probably the oldest borders of Europe'.[58]

In the fifteenth and sixteenth centuries, Portugal played a decisive role in European expansion. However, this pioneering capacity was never translated into the occupation of a central position in the world system. Portugal was at the helm of the beginning of European's military and commercial expansion of North Africa, the nautical link between the Atlantic and the Indian Oceans and the European discovery of Brazil. As a result, the country came to establish a vast colonial empire that included territories in Africa, Asia and South America. Nonetheless, it never fully assumed the characteristics of the modern State of the central countries, being the only colonising country to be considered native or wild by other colonising countries. If it was central to its colonies, but it remained on the European periphery.[59]

In the second half of the 1920s, it begins one of one of the longest European dictatorships, designated after 1933 as *Estado Novo* (New State). Regardless of the decolonisation processes taking place in Europe and the wear and tear resulting from the colonial war (liberation struggles from the point of view of colonies) starting in the 1960s, Portugal remains clinging to its imperial past. From the 1950s onwards, under the 'proudly alone' maxim (*orgulhosamente sós*), and invoking a soft coloniser condition, ideologically supported by the Lusotropicalism theories, Portugal promoted its isolation and the maintenance of a colonial empire when times were of change.

Lusotropicalism is a distorted view of the Portuguese colonisation developed by the Brazilian Gilberto Freire from the 1930s onwards, which invoked the specificity of Portuguese colonialism, describing it as harmonious and mild. According to these ideas, Portugal was in Africa to form a Luso-tropical and multiracial community, in which blacks and whites would live happily together. The Portuguese were allegedly non-racist and prone to miscegenation. Freire's ideas were initially ignored but were appropriated by fascist propaganda during the 1950s. To legitimise Portuguese politics at a time when colonialism was internationally frowned upon, it was not enough to speak of historical rights, it was necessary to deny colonial violence: according to the discourses, 'the Portuguese did not exploit, rather 'integrated' into the tropics; did not violate, rather 'created worlds', their relations with the natives were lavished with 'affectivity', etc.'[60] As Conceição Neto states, 'the colonial discourse was so insistent in academic circles, in the press, in literature, in school textbooks, in the adulteration of history, in common places, that still today it is projected in the statements of many former colonisers'.[61]

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[58] Council of Europe (2004), *Report Submitted by Portugal Pursuant to Article 25, Paragraph 1 of the FrameworK Convention for the protection of National Minorities* (received on 23 December; ACFC/SR(2004)002).

[59] Santos, Boaventura de Sousa (2012), *Portugal. Ensaio contra a auto-flagelação.* Coimbra: Almedina.

[60] Neto, Maria da Conceição (1997), 'Ideologias, contradições e mistificações da colonização de Angola no século XX', *Lusotopie*, 348.

[61] Ibid., 327,328.

In the 1970s, Portugal was the least developed country in Europe and, at the same time, the sole holder of the largest and most enduring empire. The 1960's and 1970's were marked by a wave of Portuguese emigration to central European countries, such as France, Germany and Luxembourg. A population with very low levels of education sought developing countries to improve their living conditions. During this period, many crossed the countries' borders to escape what on the Portuguese side was the Colonial War and what on the colonies' angle were the Wars of National Liberation.

The 1970s marked the end of the dictatorship and the replacement of the imperial project of colonial expansion with a democratic project of European integration. The Carnation Revolution (*Revolução dos Cravos*), on April 25, 1974, introduced a cycle marked by the end of the colonial empire; a brief attempt of state socialism, followed by the building of a parliamentary democracy; and by the entry into the European Union in 1986. The project of colonial expansion functioned, during the years of European rejection, as an imaginary that allowed Portugal to dispense with Europe. The project of European integration worked, during the moment of acceptance, as an imaginary that allows Portugal to dispense relations with the former colonies, because it is Europe. Along the way, Portugal constructs a Eurocentric narrative of its relationship with the former colonies, based on a conception of linear time, representing Africa as a backward continent, a configuration of failed states, with whom Europe has nothing to learn.[62]

A COUNTRY OF EMIGRATION

Portugal is traditionally a country of emigrants. Massive immigration is a new phenomenon for the country to deal with. Emigration might be identified in the 15th century with the overseas exploration. During 20th and 21st centuries the emigration profile assumed specific shapes and privileged different destinies in different moments:

> From the middle of the 19th century to the late 1950s, nearly two million Portuguese left Europe to live in Brazil and the United States. In the late 1950s, Portuguese emigration started to increase and follow labour market demands toward new destinations in the expanding economies of Northern and Central Europe, particularly France. In the next 15 years, up until 1974, more than 1.5 million Portuguese emigrated to take up jobs in low-wage, low-productivity sectors. Some Portuguese also fled the country's right-wing dictatorial regime that lasted between 1926 and 1974.

> Portuguese emigration slowed in the mid-1970s due to two factors. The first was an economic crisis in Europe's major economies that led them to close their doors to foreigners in 1973. The second factor was the Portuguese Revolution in April 1974, which brought down the dictatorship and saw the return of many Portuguese exiles.

> Portuguese emigration did not come to an end at this time, and even increased in the late 1980s and early 1990s, soon after Portugal joined the European Union in 1986. By the early 1990s, however, when Portugal was able to reap the advantages of the EU's free movement policies, there was a reduction in flows, as well as new emigration characteristics: an increase in the

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[62] Santos, Boaventura de Sousa (2012), *Portugal. Ensaio contra a auto-flagelação.* Coimbra: Almedina.

proportion of females, rising skill levels, and the dominance of temporary migration to other EU member states.[63]

More recently, mainly after the Troika intervention in Portugal in 2011, there was a changing in the pattern of Portuguese emigration. In the last years not only people with lower levels of education are moving abroad looking for better jobs. There was a considerable increase of people with higher high academic levels leaving the country. In the last decade there was another relevant trend: many young people looking for jobs in former Portuguese colonies, namely Mozambique and Angola.

FROM A COUNTRY OF EMIGRATION TO A COUNTRY OF IMMIGRATION – XENOPHOBIA OR RACISM?

Though Portugal has an history of strong emigration, after the mid-1970s it began to receive significant numbers of emigrants: first from the former African colonies and in the 1990s from Eastern European countries (former members of the Soviet Bloc) and Brazil. These movements have altered the demographic composition of Portugal, shaking the image of homogeneity that the country had of itself and converting Portugal into a more multicultural country, in the most descriptive sense of the word, merely meaning coexistence in space of different ethnolinguistic and national groups.[64]

It has been argued that nationality is not the main criterion for electing targets of racism. According to a study on racism and xenophobia,[65] those targets are often Portuguese citizens who are not perceived as that by many members of the ethnic majority, as is the case of the majority of Roma and the descendants of African immigrants who have Portuguese citizenship. In that study we can read that 'If the 'Nation is an imagined community', as Benedict Anderson argues, then we can say that many still racially imagine the Portuguese Nation as white (apart from other components of this imagination that escape race, linguistic, religious, etc.).

ISLAM COMPARED WITH OTHER COMMUNITIES

Unlike an England or France, after the 9/11 there was no numerically significant Islamic community in Portugal that could feed an immediate and daily reference to the stereotyping. Portugal is not indifferent to the international tendency reproduced by the media to see in the Muslims a threat, but unlike other European countries, it cannot be said that since 2001 there has been a significant increase in Islamophobia in Portugal, nor a significant increase of attacks targeting Muslims, which are few in Portugal, when compared to other communities, such as the ones to citizens of the former Portuguese colonies, countries of the ex- Soviet Union or Brazil.[66]

There are no specific policies regarding Muslims. According to the Imam of the Lisbon Mosque, quoted by the Númena referred study on racism in Portugal, there is no need for national or local policies to combat

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[63] Malheiros, Jorge (2002), 'Portugal Seeks Balance of Emigration, Immigration', *Migration Policy Institute*, 1 December. Available at http://www.migrationpolicy.org/article/portugal-seeks-balance-emigration-immigration.

[64] Númena (2008), *O Racismo e Xenofobia em Portugal (2001-2007)*. Oeiras: Númena, 7. Available at: http://www.amnistia-internacional.pt/files/Estudo_Racismo_Portugal.pdf

[65] Ibid.

[66] Ibid.

Islamophobia once anti-Islamic attitudes are not visible in Portugal and Muslims are well integrated into Portuguese society, not feeling persecuted or threatened. This is also the opinion of the Aga Khan Foundation. The Foundation has not registered any discrimination or violence, both on the part of public services and society in general. However, the NGOs contacted by the researchers were more cautious. Both the 'Solidariedade Imigrante' and 'SOS Racism' admit the existence of prejudices against Muslims in the Portuguese society. Although they have already been confronted with complaints of this kind, these complaints were about minor offenses and were made at an informal level not being registered. The imam of the Lisbon Mosque, David Munir, also believes that the Anti-Islamic discrimination, where it exists, is translated into veiled behaviours of a more passive nature and not so much in manifestations of open hostility. As an example: there is no question of firing a Muslim for dressing in a traditional way, but that if a Muslim woman wearing a veil applies for a job, it is possible that the use of the veil configures a not expressed motive for exclusion.

COLONIALISM AND LUSOTROPICALISM ARE STILL PRESENT

In 2011 it was published on *The Guardian*[67] an opinion article written by a Portuguese journalist with the very expressive title 'Portugal is race blind, but not for the right reasons'. As it is also said 'even though Portugal has racial profiling, race crime and the daily subordination of black people by whites, most Portuguese would deny that their country has significant 'racial problems' – that's what they have in America, France or the UK. Recently, a group of policemen were taken to trial because of violence committed against black people from a neighbourhood of the periphery of Lisbon (Cova da Moura) and reacting to that a weekly debate on TV choose as main debate question not how to combat racism but if there is racism in Portugal.

Quoting again the mentioned article:

> The term 'black-Portuguese' is unheard of; the word 'race' itself so rarely mentioned that it sounds strange and foreign. The terms you do hear people use are 'second-generation immigrants, 'immigrants' offspring' or, with cosmopolitan pretension, 'new Portuguese'. It sends out a clear message to non-white Portuguese: however hard you try, you'll always be newbies in this country (conveniently ignoring the fact that a black presence in Portugal dates back to the 15th century).

> There are ideological reasons behind this attitude too. Some argue that identifying people by their race is discriminatory. There seems to be a similar logic behind the fact that Portuguese authorities keep no data on ethnicity or race. Take the recently released census data, which confidently predicts the population is now heading for more than 10 million, but remains completely race blind. Unofficial figures are contradictory and unreliable. (There could be 300,000 black Portuguese, I was told a year ago by one researcher. Another said there were 500,000. Another thought the number was much higher.)

> You might argue that none of this should matter, of course. And yet, without appropriate data, can you honestly argue that the lack of social mobility in poorer communities has more to do with class than race, as some argue? Ignoring race completely means burying your head in the sand, and accepting Portugal as a country that is uniformly white. We are race blind, but not for the right reasons.

And again:

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[67] https://www.theguardian.com/commentisfree/2011/sep/12/portugal-race.

Such attitudes are a hangover from the dictatorship years and the 'luso-tropicalism' ideology created by the Brazilian Gilberto Freyre in the 1950s, which spread the idea that the Portuguese were better colonisers – and that ongoing British or French soul-searching over race was a result of 'bad colonising'.

This is a crucial question for the analysis of Portuguese situation. With the absence of data concerning race and the lack of credible data on racism it is difficult to properly address the problems. Lusotropicalism is very much present today and we can easily identify it in recent declarations from high level politicians (namely from the so much loved President or a former Ministry of Defence). Myths of the Portuguese natural desire to mix and of a colonial history much less violent than the colonial history of France or England are always being reinforced:

Unfortunately Luso-tropicalism is a myth that persists today, dragging the image of benign settlers with it, having survived the revolution of April [April 25 1974], now on other disguises, but with the same paternalism, as in the case of Lusophony' (my translation).[68]

However, discussion is starting to be raised and if it is heard mainly in the social networks it is appearing also on the traditional media. The international context, the success of populism in US and Europe, together with racist ideas being said out loud (as recently happened when a local politician won media space with racist comments against Roma) are obliging Portuguese to talk about it. At this moment there are different proposals at the Portuguese Parliament to change the Law of Nationality and the polemic is installed.

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[68] Númena (2008), *O Racismo e Xenofobia em Portugal (2001-2007)*. Oeiras: Númena, 9. Available at: http://www.amnistia-internacional.pt/files/Estudo_Racismo_Portugal.pdf.

THE NETHERLANDS

Jing Hiah and Trudie Knijn

In the Netherlands, the construction of Roma and other groups as minorities should be understood in the context of four socio-political developments. First in the context of the creation of the Dutch Republic (1581-1795), which is praised for its comparatively unique tolerance towards religious minorities. Second and in stark contrast stands the significant role the Republic played in the early days of colonialism and the slave trade. Third, in the context of pillarization or the so called 'consensus' model of governance, for which the Dutch have become widely renowned. The first steps towards a pillarized society came with the Batavian constitution in 1789, but it finds its roots in the Dutch Republic. Fourth, in the context of decolonisation when the Netherlands became an unwilling country of immigration, and integration thinking and doing was introduced. In all four phases minoritization take different shapes and serves different purposes. A first minoritization process described here is *oppositional*; organizing minority identification to overthrow the dominant order. This is exemplified by the formation of the Dutch Republic. Here – religious - minority formation first contributed to oppositional networking and the creation of oppositional networks to liberate a colonized part of the Spanish Empire. The relative freedom of religious minorities in the first Republic on earth can only be understood in that context, although soon the once oppositional Protestant minority created new hierarchies and institutions to which other minorities are classified and dominated. A second minoritization process is '*de-humanizing*' by classifying other humans as lower order beings, either by imagining them as childish, primitive or pre-modern subjects. In this process religious as well as white supremacist arguments have been crucial, exemplified in this paper by the Dutch colonial history. A third way of minoritization, and rather particular for the Netherlands is the *consensus model* in which homeland minorities are recognized as being different though legitimated because they together form the national identity. This consensual unit known as the pillarized society developed in the Netherlands from the 19th century on, has its roots in the Dutch Republic and lasted till the second half of the 20th century. Finally, and most recent we see a way of minoritization in which *national identity* is the battlefield of the imaginary order of exclusion. In this process all identities are at stake; gender, race, religion, ethnicity, age and place of birth. This phase of minoritization started in the Netherlands in the 1960s at a time when the consensus model cracked, and new imaginations of the social order developed. Importantly, all four variants of minoritization got shape in political and economic circumstances from which the elites and parts of the population benefitted; whether it be the free trade of the Dutch merchants of the Republic, the population at large from the colonial exploitation, the Dutch welfare state from the pillarization and the recruitment of so-called 'guest-workers' in the 1960s and 1970s. And again, under the rule of the EU and the human rights agreements populations in Europe struggle with the fragile balance between their own vested interests and the costs of recognizing the interests of 'the Other'.

RELIGIOUS PLURALITY IN THE REPUBLIC

> There is scarcely any region in Western Europe that for most of its early modern and modern past has exhibited such an extreme degree of religious diversity as the Netherlands. Religious pluralism has been a characteristic of Dutch culture for at least four centuries. During that period the Dutch have been praised or berated for their policies and practices of toleration, not for their attempts to reach some degree of unanimity in religious affairs.[69]

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[69] Van Eijnatten, J. (2003). *Liberty and Concord in the United Provinces: Religious Toleration and the Public in the Eighteenth-century Netherlands*. Leiden: Brill, 1-2.

In the Dutch Republic (1581-1795) minoritization processes were tied in with practices of religious toleration that were in turn interlinked with firstly religious plurality that resulted from the Dutch Revolt, in which provinces of the Low Countries[70] in unison successfully revolted against the rule of the Roman Catholic King Philip II of Spain, hereditary ruler of the provinces. Second, practices of religious toleration should be understood as a consequence of the Republic's highly decentralized government administration. In the Republic, local and regional areas enjoyed relative autonomy and freedom in political decision making. Political power was locally organized and legitimized, founded in consensus among provinces. In the later ages, this would be referred to as the 'Dutch consensus culture' or *polder model*: political decision making found on a middle ground between disparate political parties. This principle would guide Dutch politics until the present day.[71]

The religious pluralism resulted from the Dutch Revolt coincided with the Reformation (1517-1576/1648); the schism in the Roman Catholic church initiated by Martin Luther (1483-1546). The Dutch claimed scope for their own ethics and interpretation. This freedom to worship was violently suppressed by the Spanish crown.[72] However, some historians[73] doubt that the Revolt was merely motivated by religious dissent. Economic incentives of trade and heavy taxation also played an imperative role in the underlying motivation of the Revolt. Spain was waging war on trade partners of the Dutch provinces and paid for these wars by heavy taxing the Low Countries. Furthermore, Dutch merchants were prohibited to trade in the West-Indies, which was claimed by the Portuguese under the protection of the Spanish crown. Both high taxes and trade restrictions caused much discontent among the Dutch merchants. After the successful Revolt, the Dutch were free, both to worship and to trade in the West-Indies – which offset an era of economic prosperity, also known as the Golden Age[74] in which various religious (minority) groups lived in relative prosperity alongside each other.

PRAGMATIC APPROACH TO FREEDOM OF RELIGION
In the newly formed Republic the majority of the population was Calvinist Protestant and member of the Reformed Church. Various minority groups were to an extent free to practice their own religious beliefs. However, the freedom that religious and other minorities enjoyed in the Republic should be considered a pragmatic tolerance:

> State policies were guided by the notion that diversity was regarded at best as an unforeseen and unfortunate result of the Reformation and the Dutch Revolt. […] The Dutch managed to come to terms with religious diversity within their borders by developing the policies of toleration for which they would be celebrated.[75]

Religious plurality as a principle was only explicitly expressed by some, such as the Portuguese Jewish philosopher Spinoza (1632-1677) and the French Huguenot Bayle (1647-1706). The majority of 17th and 18th century

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[70] The Low countries was in this period a western coastal region of the Netherlands, Belgium and Luxembourg.

[71] Wielenga, F. (2015). *A History of the Netherlands: From the Sixteenth Century to the Present Day*. London: Bloomsbury, 71-75.

[72] Ibid., 17.

[73] See ibid.

[74] Ibid., 14.

[75] Ibid., 4.

population and their leaders favoured religious uniformity.[76] While in practice, dissenting religious practices were tolerated, the Dutch Republic was an early modern confessional state like any other in its time: The Reformed Church functioned as a public Church with a dominant clergy and a religious discourse that in many ways implied religious uniformity. In these days, only members of the Church could hold public office positions and attain membership of guilds.[77]

Finally, while a pragmatic stance towards religious freedom was practiced, the following paragraphs will underline how minoritization processes were not only informed by religious difference but also racial categorization, which affected the legal position of minorities such as the Roma, Jews and people of colour from the colonies.

CATHOLIC AND PROTESTANT MINORITIES

Catholics were the largest minority group mainly living in the Southern less developed parts of the Dutch Republic. After the Peace of Münster, the treaty between the Dutch Republic and Spain (1648), by which the independence of the United Netherlands was finally recognized by the Spanish crown, their religion was legally recognized. Roman Catholics were still perceived as anti-national elements because of their fidelity to the Vatican Pope, and because they withdrew from taking part of the Revolt in the latter years.[78] Protestant Calvinists were concentrated in the most important political and economic hubs of Holland and Zeeland together with Christian minorities, such as Protestant dissenters, including Mennonites, Lutherans and Remonstrants, and since 1702 also a Catholic fraction, now known as Old Catholics who dissented the Roman hierarchy.[79] These denominational groups enjoyed the same regime as the Catholics did. In this regime, denominational churches were tolerated, but they were hidden from the public eye, and their members were excluded from public office positions and guilds. These limitations did not always translate into a disadvantaged social position. For example, a great many Mennonites became active in the banking sector and accordingly contributed greatly to the commercial, cultural and intellectual life of the Republic in the 17th century Golden Age.[80]

LABOUR MIGRANTS AND RELIGIOUS REFUGEES

The prosperity of the Dutch Golden Age would have been unthinkable without refugees and labour migrants. Large numbers of migrant workers were active as seasonable labourers in agriculture, industry and commerce. These workers were drawn by a high level of living and working conditions in the Dutch Republic. During the 17th and 18th centuries, 6-8 per cent of the population had foreign origins. 40 per cent of the seafarers who signed on to serve on the VOC ships in the 1650s were born outside the republic. Migrants came from a range of

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[76] Van Eijnatten, J. (2003). *Liberty and Concord in the United Provinces: Religious Toleration and the Public in the Eighteenth-century Netherlands*. Leiden: Brill, 6.

[77] Wielenga, F. (2015). *A History of the Netherlands: From the Sixteenth Century to the Present Day*. London: Bloomsbury, 4.

[78] Van Eijnatten, J. (2003). *Liberty and Concord in the United Provinces: Religious Toleration and the Public in the Eighteenth-century Netherlands*. Leiden: Brill, 12.

[79] Wielenga, F. (2015). *A History of the Netherlands: From the Sixteenth Century to the Present Day*. London: Bloomsbury, 188.

[80] Hamm, Ernst (2012). Lecture one: Mennonites, Natural Knowledge, and the Dutch Golden Age. *The Conrad Grebel Review 30*(1).

European countries, such as Germany, Scandinavia, Poland, England and France. At the end of the 16th century large number of Jews sought refuge in the Netherlands. First Sephardic Jews came from Spain and Portugal to escape the Inquisition. During the Thirty Years' War (1618-1648) many Germans and Eastern European (Ashkenazi) Jews sought refuge in the Dutch Republic and at the end of seventeenth century, tens of thousands French Protestants (Huguenots) found a safe haven in the Republic because of its tolerant religious climate.[81]

PEOPLE FROM ABROAD; JEWS AND ROMA

Proof of Jewish presence in the Netherlands dates from the 13th century when the Netherlands still formed part of the 'Holy Roman Empire'. From the 13th and 14th century also date the first indications of mass killings of hundreds of Jews in the Catholic dominated parts of the country, related to the old dispute between the two religions. Moreover, Jews were scapegoated for the pest epidemic of 1348. In the Netherlands Jewish populations never were ghettoized, and not obliged to wear marks. However, they could not perform all professions and were not allowed to marry a Christian. For Jews times changed after the liberation from Spanish command. 'The freedom the Jews enjoyed in Amsterdam in the 17th century was far greater than in any other part of the Diaspora […] [but] it was far less principled and comprehensive than often thought'.[82] Like other religious minorities, around 1650, the Jews were in general permitted to have their own places of worship. Another explanation for the liberal attitude towards the Jewish minority is the commercial success of Jewish merchants in the Republic. This was especially the case for some of the Portuguese Jews, who brought trade contracts from their home country to the Republic, financed the VOC and became house bankers of the Dutch nobility. They were included in the wealthy elite, living mainly in Amsterdam.[83] Such privileges were not granted to the Ashkenazi Jews from Germany and Eastern Europe (mainly Poland), who came to the republic after 1648. About 4 per cent of the population in Amsterdam was Jewish in 1675, a percentage that would hold until World War II.[84]

Nomadic groups travelling *en famille* were already spotted in the Netherlands in the 1400's. In the 1400's these travelling groups were referred to as 'Egyptians' or 'heathens'.[85] They enjoyed a favourable reception initially, yet from about the year 1500, the attitude of the authorities changed into a more repressive approach. This change was believed due to the general hardenings of government policy towards nomadic groups during the

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[81] Wielenga, F. (2015). *A History of the Netherlands: From the Sixteenth Century to the Present Day*. London: Bloomsbury, 66-67.

[82] Kaplan, Y. (2008). *Preface.* In Y. Kaplan (Ed.). *The Dutch Intersection: the Jews and the Netherlands in Modern History* (pp. xi-xv). Leiden: Brill, xiii.

[83] Ibid, iii.

[84] Wielenga, F. (2015). *A History of the Netherlands: From the Sixteenth Century to the Present Day*. London: Bloomsbury, 67-68.

[85] Why these groups were called 'Egyptians' or 'Heathens' is unclear. 'Egyptians' could refer to how, allegedly, some members of these groups claimed to have come from 'New Egypt'. There is no consensus on where the geographical area of 'New Egypt' would be located– some argue that it is an area in Eastern Europe or Asia Minor (current Anatolia in Turkey). Others were of the opinion that the tanned skin colour of these 'Egyptians' revealed that they are Tartars also known as Saracens. The label 'Heathens' might refer to first, how these travelling groups were mainly living outside the city and in the rural areas, as the translation of Heathens in Dutch is 'Heidenen', which refers to 'heiden' that in turn translates to 'rural grounds'. Second, being called Heathen could also denote that these groups were not Christian worshippers. See Lucassen, L. (1991). The power of definition. Stigmatisation, minoritisation and ethnicity illustrated by the history of gypsies in the Netherlands. *Netherlands Journal of Social Sciences, 27*, 21-22.

Spanish and Roman Inquisition.[86] Travelling groups were perceived as parasites who were living off the (rural) population and refused a regular existence with suitable jobs. It was also during this period that the term 'gypsy' became more popular. In 1600 there were edicts issued that even declared their presence as punishable by law. This started a vicious circle of repression and criminal behaviour. The escalation of repression against these nomadic groups reached its height at the beginning of the 18th century, when there were large-scale organised hunts for 'heathens' in various districts. Many of the 'heathens' were killed without trial. Afterwards, these nomadic groups disappeared from the government's lens and no special policy was devised for them until 1886.[87]

In contrast to how various religious minority groups were welcomed in the Dutch Republic this was very different for nomadic travelling groups that will be referred to as 'Roma' centuries later. One of the few studies conducted on the historical presence of 'Roma' in the Netherlands is by Lucassen, who suggests that the minoritization 'Roma' in the Netherlands started with the dissemination of negative ideas about them by religious and state authorities. Then the process of labelling starts, meaning the inclusion of individuals in the stigmatized category. Labelling is especially relevant in cases where it is unclear who is considered a group-member. Stigma and labelling can change independently from each other. The case of the Roma in the Netherlands illustrates (see below) that the importance of a stigma can remain the same for a certain period, while the groups that are considered by government as fit for the label changes.[88] For instance, whilst one can argue that the groups denoted as 'gypsies' and/or as 'heathens' from the 1400's on were different than the groups in the 1800's, still these groups received the same stigma of 'gypsy', because they shared some similar characteristics. In conclusion, the historical process of minoritization of Roma is noteworthy. Roma have lived in the Netherlands for centuries, yet to this day, they have always been labelled as minorities.[89]

Concluding, in the Dutch Republic, religion was key in the construction of majority and minority groups. Religious minority groups were tolerated to worship to their liking. Yet toleration was never conceived as an end in itself, rather as a practicality to achieve concord in wider society. Socio-economic standing would further define the treatment one received. In the case of the Roma, the study by Lucassen suggests that both factors, inhibiting a deviating religion ('heathens'), and a lower socio-economic standing coalesced. These two factors combined with the unwillingness of the Roma to settle permanently, might have been causes that raised suspicion by authorities and consequentially, lead to the devise of repressive and violent policies to rid the public of Roma minorities.

CONTEXTUALIZING (DUTCH) COLONIALISM AND SLAVERY: RELIGION AND BIOLOGICAL ESSENTIALISM

The Low Countries had been an important trading hub before and during Spanish rule. But only after the Treaty of Munster the Republic truly flourished. Amsterdam developed into the most important commercial centre in Europe for shipping, banking and insurance after the Revolt. Efficient access to capital and trade contracts enabled the Dutch in the 1580's to further extend their trade routes. The most import Dutch trading companies, the Dutch East India Company or *Verenigde Oost-Indische Compagnie* (VOC) and the Chartered West India Company (*West Indische Compagnie* (WIC) were founded at about 1600. Although these were private enterprises, the States-General granted it the sole rights for 21 years to trade and navigate the east of the Cape

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[86] Groups that were conceived as not 'pure' Roman Catholic risked persecution. In particular, many persecutions were aimed at Jews, travellers and women suspected of witchcraft (Thomas 1990).

[87] Lucassen, L. (1991). The power of definition. Stigmatisation, minoritisation and ethnicity illustrated by the history of gypsies in the Netherlands. *Netherlands Journal of Social Sciences, 27,* 81.

[88] Ibid., 80-81.

[89] Ibid.*,* 80-81.

of Good Hope and the west of the straits of Magellan. The VOC was also given the authority to establish fortresses and strongholds, to sign treaties and to enlist both an army, a navy and to wage defensive wart.[90] In this earlier phase of Dutch colonialism, constructions of gender, race and classed differences that were drawn from religious notions and biological essentialism played an important role in the ideologies to justify slavery on and exploitation of the colonies.[91] Despite that colonialism and colonial thinking might be argued as emblematic of its time, dissenting opinions were voiced within and with regard to the VOC. For example, Laurens Reael (1583-1637) argued that; 'de welvaar van het ene volk niet duurzaam op het ellende van een ander rusten' (the well-being of one population should not rest on the misery of another population). Others posed the question as to how the natives could survive if the Dutch would monopolize the agriculture and farming products on the colonies, also the natives' home.[92]

COLONIALISM AND EVOLUTIONARY DISCOURSES

Natives from the colonies were represented in texts and drawings in evolutionary discourses, as child-, medieval and animal like, hence closer to nature and dependent on the 'whites'.[93] The representations also involved ideas on how natives had 'loose sexual morals', because of their scanty dressing and practices of homosexuality they were considered as satanic.[94] These religious and orientalist ideas started among others a tradition of taxonomies that were created of Javanese or Balinese cultures to render them more manageable to the Dutch colonial regime.[95] Interestingly, the colonial rulers were not directly interested in 'civilizing' or assimilating indigenous populations. Issues at place concerned people of mixed blood[96] and (Dutch) colonial administrators and workers who had lived overseas for long stretches of time. In other words, individuals who in some way were considered 'European' were scrutinized for their morals, reflecting the meaning of being 'real European'.[97]

Religious and biological-essentialist informed discourses also influenced the Dutch attitude towards inter-cultural contact and the construction of minorities. In the early phases of expansion and exploration, there was no general outcry and no general attempt to prohibit or outlaw mixed relationships. Rather, some considered mixed marriages as productive forces in 'stabilising' the newly occupied territories and for that reason, Dutch colonisers and merchant companies promoted intermarriage. This approach towards immigration and interracial

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[90] Vanvugt, E. (2015) *Roofstaat. Wat iedere Nederlander moet weten.* Amsterdam: Nijgh & van Ditmar, 108-109.

[91] Jones, G. (2016). What Is New about Dutch Populism? Dutch Colonialism, Hierarchical Citizenship and Contemporary Populist Debates and Policies in the Netherlands. *Journal of Intercultural Studies, 37*(6), 608.

[92] Vanvugt, E. (2015) *Roofstaat. Wat iedere Nederlander moet weten.* Amsterdam: Nijgh & van Ditmar, 135-136.

[93] Schinkel, W. (2017). *Imagined Societies: A Critique of Immigrant Integration in Western Europe.* Cambridge: Cambridge University Press, 122.

[94] Vanvugt, E. (2015) *Roofstaat. Wat iedere Nederlander moet weten.* Amsterdam: Nijgh & van Ditmar, 82-83.

[95] Gouda, F. (1995). Teaching indonesian girls in Java and Bali, 1900-1942: Dutch progressives, the infatuation with 'oriental' refinement, and 'western' ideas about proper womanhood. *Women's History Review*, *4*(1), 25-62.

[96] Racialized terminology was used to refer to mixed offspring: mixtiesen or mestiesen (Latin: mixtius, Spanish, mestiezo, Portuguese: mnestico). Dutch: mesties, kleurling, gemengd bloedige, halfbloed, onegt or bastaard (Vanvugt 2016: 75).

[97] Jones, G. (2016). What Is New about Dutch Populism? Dutch Colonialism, Hierarchical Citizenship and Contemporary Populist Debates and Policies in the Netherlands. *Journal of Intercultural Studies, 37*(6), 608.

marriages was common in all European imperial regimes, most prominent in France and England.[98] In 1617 it became forbidden for Christians to marry non-Christians, heathens and Moors, which was confirmed in a *Plakkaat*[99] of 1625 and in 1642 in the Batavian Statutes. The regulation of mixed-relations and marriages also took place in the Dutch Republic. From 1656 Marriages between Christians and Jews, Muslims and Heathens became punishable by banishment. This prohibition only ended after the Batavian Revolution in 1796.[100]

Although the mixed-marriage prohibition involved religious motives, race played an important role. This is illustrated by the explicit reference to racial categories in the marriage prohibitions in the context of Suriname.[101] Various other regulations were established to further restrict interracial marriages. In 1636 the VOC board decided that European men who were married to black women were not allowed to return to the Netherlands. From 1649 this rule applied not only to VOC-employees but also to *vrijburghers* or ordinary citizens who were often former VOC employees (Ibid.) Critical for our understanding of these colonial ideas, is an example of a case in which intermarriage was permitted: several Asian women were abducted to wed Dutchmen. These women would be converted to Christianism and therefore were considered as appropriate spouses.[102] Religion thus played a crucial role in the meanings the Dutch colonizers attributed to their relationship with the natives. Religion played likewise an important role in the meanings the Dutch attributed to the slave trade and would be a crucial reason preventing Christians in the Netherlands from fighting for the emancipation of people made into slaves for a long time. They believed that Africans were the descendants of Cham, according to the biblical telling of the curse of Cham by Noah in Genesis IX:25, 26. The descendants of Cham were doomed for service to the whites.[103]

Not all Dutch interpreted colonialism and slavery in light of religious motives. For instance, Van Linschoten (1563-1611), an important Dutch merchant and author, did not write about colonization as being 'gods will' like the Spanish and the British did. Rather, he reported about colonisation as a worldly, sensual and profit maximizing endeavour.[104] This perception of slavery as a 'trade' is in the contemporary Netherlands still very relevant when discussing the Dutch involvement in the slave trade:

> The idea that it takes two or more parties to carry on a transaction or trade, regardless of the circumstances under which these parties operated. This implies that some form of African collaboration was required to initiate and sustain what became known in historiography as the transatlantic slave trade. It also suggests that the victims of enslavement were slaves in Africa

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[98] Hondius, D. (2011). Access to the Netherlands of enslaved and free black Africans: Exploring legal and social historical practices in the sixteenth–nineteenth centuries. *Slavery & Abolition, 32*(3), 378.

[99] A *Plakkaat* was in the Low Countries between the 16th until the 18th century an ordinance through which government regulations were used to inform the people.

[100] De Hart, B., (2015). *Onwaarschijnlijke koppels: regulering van gemengde seks en huwelijken van de Nederlandse koloniën tot Europees migratierecht = Unlikely couples: regulating mixed sex and marriage from the Dutch colonies to European migration law*. (Oratiereeks). Amsterdam: Universiteit van Amsterdam, 24.

[101] Ibid., 18.

[102] Vanvugt, E. (2015) *Roofstaat. Wat iedere Nederlander moet weten.* Amsterdam: Nijgh & van Ditmar, 149-152.

[103] Van Winter, J.M. (1953). De openbare mening in Nederland over de afschaffing der slavernij. Johanna Maria Van Winter. De West-Indische Gids, 64.

[104] Vanvugt, E. (2015) *Roofstaat. Wat iedere Nederlander moet weten.* Amsterdam: Nijgh & van Ditmar, 80.

before they were enslaved in the Americas. If we take this reasoning to its logical conclusion, then any acts or atrocities committed cannot be blamed on the European enslavers.[105]

Thus, In the perception of slavery as religiously inspired and a 'trade' activity, the referent and the merchant come together.

RIGHTS AND CITIZENSHIP IN THE REPUBLIC AND ITS COLONIES

Citizenship regulations varied between towns and/or provinces during the Republic, though the common denominator was the distinction between native born, those born within the territory in question; and aliens, those born outside it. Accordingly, all migrants were aliens and equal rights could only be acquired by means of naturalization in the Republic. Christian migrants could also acquire citizenship by receiving guild membership, which in the 17th century was not an exceptional route.[106] Hence, both first and second-generation immigrants could acquire citizenship, respectively by guild membership or because they were born in the country to which their parents had immigrated. The *ius soli* principle was less strictly applied in the Dutch Republic than elsewhere; membership of a guild was less expensive, and migrants were included in the guild system as soon as possible. The alien status however was applied to children born abroad or in the colonies even if their parents hold Dutch citizenship.[107] Due to relative local autonomy, cities and towns in the 17th century could regulate their own 'minority politics'. For instance, cities like Alkmaar, Haarlem and Rotterdam introduced at about 1600 their specific 'Jews regulations' stating that Jews could settle in their cities and would enjoy religious freedom under the condition that they would not marry a Cristian nor tried to convert Christians to Judaism. In spite of resistance against these tolerant regulations from the highest Republican authorities a few years later also Amsterdam applied a similar regulation in 1616. Only in 1796 were Jews granted full civic rights,[108] while with the aim to further 'emancipate' Jews, Jewish schools were ordered to teach their pupils Dutch,[109] and Jewish congregations needed to adapt and reorganize in line with Dutch legislation of separation of state and church or 'privatization' of religion.[110]

The construction of citizenship in the modern period was embedded in strongly gendered, classed and racialized processes which not only rendered a category of non-citizens, second class citizens or conditional citizens, but also contributed to the forming of a category of privileged, elevated unconditional citizens.[111] Whereas European migrants possessed freedom of movement to a certain extent, freedom of movement was severely limited for travelling groups such as the Roma, poor migrants and citizens from specific states such as the Russian Empire

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[105] Nimako, K.., A. Abdou & G. Willemsen, (2014). Chattel slavery and racism: A reflection on the Dutch experience in P. Essed & I. Hoving (Eds.) *Dutch Racism*. Amsterdam: Editions Rodopi BV, 33-34.

[106] Prak, M., M. Hoogenboom & P. Wallis, 2018. Troublesome Transitions and Historical Continuities: Citizenship in Europe, 1600-2000.

[107] Lucassen, J., & R. Penninx (1997). *Newcomers: Immigrants and their Descendants in the Netherlands 1550-1995.* Amsterdam: het Spinhuis, 76-77.

[108] Tammes, P. & P. Scholten (2017). Assimilation of ethnic-religious minorities in the Netherlands: a historical-sociological analysis of pre-world war II Jews and contemporary Muslims. *Social Science History, 41*(3), 483.

[109] Ibid.

[110] Ibid.

[111] Jones, G. (2016). What Is New about Dutch Populism? Dutch Colonialism, Hierarchical Citizenship and Contemporary Populist Debates and Policies in the Netherlands. *Journal of Intercultural Studies, 37*(6), 605-620.

and Turkey along with indigenous people from the colonies – of which the latter included offspring of Dutch men who laid with 'exotic' indigenous women.[112] These groups were treated with suspicion, hindered in their movements and often expelled. 'In this sense, the long history of these Dutch politics may also be read as an economics of citizenship, via which securities, opportunities and wealth are unevenly distributed'.[113]

During the 18th and 19th century Republic, women and religious minority groups were fighting for the expansion of civil and political rights.[114] And aside from deep inequalities of gender, class and religion – all persons in principle held legal personhood in the Republic. Legal personhood referring to the status of being a person with rights, protections, privileges, responsibilities, and legal liability. In the colonies, the expansion of civil and political rights was of interest only for members of a small (male-dominated) colonial elite recognised as citizens. For most of the colonies' population, the central question revolved around whether their human body was recognized as a (legal) person bearing rights. Therefore, for the majority of people living on the colonies, the most important issue was manumission, the act of a slave owner freeing his/her slaves. Through manumission an enslaved body could transform into a free person.[115]

As the above analysis has shown, rights that people enjoyed in the Dutch Republic and its colonies depended on the intersectionality of religion, socio-economic status along with gender and race. Still, a leading contrast in defining minority versus majority groups existed between 'white' European citizens that migrated to the Republic versus the subjects living on the colonies. Religious informed thought together with biological essentialist philosophies warranted an approach in which colonial subjects were not considered as fully human in the way Europeans were. Therefore, slavery and slavery like practices were perceived as admissible and desired.

EXPANDING CIVIL AND POLITICAL RIGHTS *1798-1917*

Minoritization processes in the later 18th ranging until the early 20th century should be conceived in the perspective of increasing socio and political rights for the general population in the last decades of the Dutch Republic and the new Batavian constitution in 1789. A distinction should be made between legal rights and rights in practice.

THE BATAVIAN CONSTITUTION IN *1798*

By the end of the 18th century in the Dutch Republic, like other parts of Europe, resentment grew against the ruling aristocracy, inspired by the (perceived) economic stagnation. The important role the Republic played in the international trade in the 17th century diminished as a result of the Napoleonic and Java wars. Accordingly, industry, trade and employment rates decreased.[116] Like elsewhere (The French Revolution of 1789) these developments were in the Netherlands blamed on the Stadholder Willem V, the de facto head of state,

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[112] Vanvugt, E. (2015) *Roofstaat. Wat iedere Nederlander moet weten.* Amsterdam: Nijgh & van Ditmar, 33.

[113] Jones, G. (2016). What Is New about Dutch Populism? Dutch Colonialism, Hierarchical Citizenship and Contemporary Populist Debates and Policies in the Netherlands. *Journal of Intercultural Studies, 37*(6), 606.

[114] Van Houdt, F. & W. Schinkel (2009). Aspecten van burgerschap. Een historische analyse van de transformaties van het burgerschapsconcept in Nederland. *Beleid & maatschappij* 36 (1), 50-58.

[115] Jones, G. (2016). What Is New about Dutch Populism? Dutch Colonialism, Hierarchical Citizenship and Contemporary Populist Debates and Policies in the Netherlands. *Journal of Intercultural Studies, 37*(6), 608-609.

[116] Aerts, R. (1999). Een staat in verbouwing. Van republiek naar constitutioneel koninkrijk 1780-1848. In R. Aerts, H. de Liagre Böhl, P. de Rooy & H. te Velde (Eds.), *Land van Kleine gebaren. Een politieke geschiedenis van Nederland 1780-1990* (pp. 23-43). Amsterdam: Amsterdam University Press.

representing the well-off aristocracy. The Dutch population became divided between 'Orangists' (in favour of the stadtholder) and 'Patriots' (striving for a more democratic government and equal society). The resentment built up into a civil war that climaxed into the Batavian Revolution that, with help from France, caused the end of the Dutch Republic in 1795.[117]

From 1795 to 1813 the Netherlands was governed by France, and in 1814 the Dutch became independent again. Religious dissent between the Northern and Southern provinces played a great role in the final secession of what we today consider Belgium, from the Netherlands. The present Kingdom of the Netherlands was created in 1830.

The French era has had a great influence on the Netherlands (and Europe) of today. In the Netherlands, following the revolution of 1795, a new constitution[118] was created in the image of the French one. The new constitution ended the old social-political structure of Dutch society. The new Kingdom became a unitary state with a central parliamentary government in The Hague. This also concluded the urban and provincial autonomy that had characterized the Republic throughout the previous centuries. The old system of rights and privileges made place for a rule of law in which citizens would be treated equally. The French period laid the fundaments of the current constitutional Dutch state: fundamental freedom of religion, freedom of assembly and speech, constitutional unity of the Dutch provinces, separation of powers and the right to vote. Political rights were extended, and political activism and participation were considered a perquisite for the new society.[119] Furthermore, the Dutch Kingdom became a secular state and the Dutch reformed church lost its prominent role, and privileges of church membership were similarly abolished. Public office positions and membership to diminished guilds became available to all citizens.[120]

Following the French period several more amendments would be made to the constitution in the 19th century. With these constitutional amendments, the idea of citizenship slowly developed from *Ius Soli* to an *Ius Sanguine* system (following the French constitution). In 1838 the Civil Code definition of a citizen of the Netherlands was not determined by residency but by a combination of the principles of ancestry and of territoriality. The new constitution of 1848 attempted to separate residential nationality from Dutch nationality, but this was only accomplished in 1892 by the law on Dutch nationality and residence, regulating the principle of descent; anyone born to a Dutch citizen would acquire the Dutch citizenship. The territorial principle has a complementary role, for instance, whereas one may not hold Dutch citizenship, one can be recognized as a member of a Dutch municipality and accordingly be granted access to specific rights such as the right to vote for local elections.

GENDER-BASED MINORITIZATION

In previous periods relative tolerance with regard to religious minorities went along with religion based minoritization of colonized populations, nomadic groups, and women. In the 17th and 18th century Republic, the legal position of women still was determined in the light of rights conceived at birth: women were supposedly

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[117] Rutjes, M. (2014). Onderdrukt Onbehagen. Het ontstaan van de repressieve staat in Nederland. In B. Mellink, P. van Dam & J. Turpijn. *Onbehagen in de polder: Nederland in conflict sinds 1795* (pp. 23-43). Amsterdam: Amsterdam University Press, 26-29.

[118] Also known as the Batavian Constitution.

[119] Rutjes, M. (2014). Onderdrukt Onbehagen. Het ontstaan van de repressieve staat in Nederland. In B. Mellink, P. van Dam & J. Turpijn. *Onbehagen in de polder: Nederland in conflict sinds 1795* (pp. 23-43). Amsterdam: Amsterdam University Press, 29-30.

[120] Wielenga, F. (2015). *A History of the Netherlands: From the Sixteenth Century to the Present Day*. London: Bloomsbury, 138.

born as the less sensible sex and therefore it was only natural for men to rule over women. This also meant that women were considered unfit for governing.[121] Whilst women had little legal freedom, in practice the position of Dutch women improved much in the 17th and 18th century.

The Republic was widely known for its high share of female labour participation, to be understood in the context of Protestantism. Protestantism offered women more freedom of movement than did the patriarchal Catholic Church and accordingly, a favourable legal framework.[122] Widows and unmarried women older than 25 were considered capable of performing legal acts and could thus start a business independent of a male representative. Married women were also given leeway to become independent entrepreneurs – despite the legal guardianship of their husbands.[123] However, tax registers reveal that elite women were *renteniers[124]* more often than men and that poor women were dependent on assistance far more often than men, showing that many women compared to men remained outside the labour force. Nevertheless, most women worked in the 17th century Republic (Ibid.).

The first feminist wave (end of the 19th century) aimed at attaining legal rights, including general suffrage, the right to study at university and better employment rights for women. Aletta Jacobs (1854 – 1929) was the first Dutch woman who obtained a university degree and became the first female doctor in the Netherlands in the beginning of the 20th century. Jacobs would continue to play a prominent role in the first feminist wave, fighting for women's suffrage, equal rights, world peace (during World War I), birth control and health service for prostitutes among others. During the beginning of the 20th century more Dutch middle class women would start working. It was as late as in 1917 that general suffrage (*actief kiesrecht*) would be implemented and – only since 1922 women would be able to become candidates for political elections (*passief kiesrecht*).[125]

ABOLITION OF SLAVERY

Liberated from the Spanish oppressors at the end of the 16th century, the Dutch condemned the presence of slaves on their homeland territory. But slavery was not prohibited on the Dutch colonies, nor did the rulers frown upon the wealth that Dutch merchants gained from their participation in the slave trade. Dutch merchants made a lot of money with trading in products produced by African people made into slaves, such as sugar, tobacco, coffee, cotton, chocolate, rum, spice, dyes and hemp. Furthermore, practices similar to slavery, such as servitude and forced labour (e.g. the 'coolie' trade) were not uncommon in the colonies, a practice substituting the then forbidden slave trade.[126] In similar vein, the Dutch partook in the Asiento system of Spain, in which the Spanish crown sold licenses to traders and bankers to 'import' captive Africans to the West-Indies and Southern Americas.

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[121] Dekker, R. M., & M. Carlson (1998). Women in the medieval and early modern Netherlands. *Journal of Women's History*, *10*(2), 167.

[122] Dekker, R. M., & M. Carlson (1998). Women in the medieval and early modern Netherlands. *Journal of Women's History*, *10*(2), 170.

[123] Van den Heuvel, D. (2008). Partners in marriage and business? Guilds and the family economy in urban food markets in the Dutch Republic. *Continuity and Change*, *23*(2), 220.

[124] Independent persons living of the means acquired through bank interests

[125] Braun, M. (1985). Het vrouwenkiesrecht en de maritale macht. *Nemesis, 1*(5), 224-228.

[126] Vanvugt, E. (2015) *Roofstaat. Wat iedere Nederlander moet weten.* Amsterdam: Nijgh & van Ditmar, 126.

Soon enough these licenses were traded to subcontractors including sea-going captains from all over Europe, including the Netherlands.[127]

At the end of the 18th century more anti-slavery protests were voiced in the Republic. 1853 was a turning point in Dutch politics on thinking about slavery. Dutch translations of 'Uncle Tom's Cabin' and the book by Dutch politician Van Hoevell 'Slaves and freemen under the Dutch Law' (*Slaven en vrijen onder de Nederlandsche wet*) were of a great influence.[128] Religious Christian groups spoke out against the slave trade, protested against casualties of the long seafaring journeys, poor living conditions of people made into slaves as well as bad living conditions of the Dutch military officers supervising the slave trade. Changes in the economy and technological developments made the slave trade less lucrative than sugar trade. To be able to make the sugar trade successful, it was important to bring more stability to the African continent. Finally, the development of agricultural machines and tools made the labour of people made into slaves increasingly unnecessary. Thus, the slave trade became not only increasingly undesirable from an ethical stance, but also unnecessary.[129]

Accordingly, practices of manumission grew on the Dutch colonies. Worried about the number of freedmen leaving the colonies, the Dutch authorities introduced laws to regulate manumission.[130] Regulating manumission was a form of spatial legal segregation of newly freedmen as a minority.[131] The Dutch aimed to spatially segregate newly freedmen both by limiting their freedom of movement to the Dutch mainland through introducing new laws and a dual citizenship system. A first effort to regulate the freedom of movement for newly freedmen was a law in 1816[132] that prohibited the right to travel for freedmen. This law decided that freedmen could only travel outside the colony after one year and one day after receiving their freedom letter and had requested exemption from the travel prohibition. In 1831, the legal personality of former people made into slaves would be established in a new law, defining citizen rights, *Burgerregt.*[133] This law bestowed equal rights to free people of colour, and designated people made into slaves as minors. These citizenship rights applied to all colonial property holders; all freeborn persons who had been living in the colony since before 1816; all freeborn persons who had arrived after 1816 and possessed a passport or an official function as a civil servant; and people who already had citizenship rights in any other Dutch colony. Those freedmen who were liberated before 1831 and lived in Surinam, as well as their children, would obtain citizenship rights 'insofar as they do not belong to the

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[127] Ibid., 125.

[128] Laarman, C. (2013). *Oude onbekenden: Het politieke en publieke debat over postkoloniale migranten in Nederland, 1945-2005*. Hilversum: Uitgeverij Verloren, 145-147.

[129] Vanvugt, E. (2015) *Roofstaat. Wat iedere Nederlander moet weten.* Amsterdam: Nijgh & van Ditmar.

[130] Hondius, D. (2011). Access to the Netherlands of enslaved and free black Africans: Exploring legal and social historical practices in the sixteenth–nineteenth centuries. *Slavery & Abolition,* 32(3), 388.

[131] De Hart, B., (2015). *Onwaarschijnlijke koppels: regulering van gemengde seks en huwelijken van de Nederlandse koloniën tot Europees migratierecht = Unlikely couples: regulating mixed sex and marriage from the Dutch colonies to European migration law*. (Oratiereeks). Amsterdam: Universiteit van Amsterdam, 132.

[132] Gouvernementsblad Suriname, no. 11, 1816: Notificatie 16 December 1816, of a Resolutie, taken by the Hof van Policie. Paramaribo, 16 Dec. 1816, Ter Ordonnantie van den Hove, P.J. Changuion, secretaries (in Hondius 2011: 388).

[133] Gouvernementsblad Suriname, no. 13, 25 July 1831: Reglement op het Burgerregt in de Nederlandsche West-Indische Kolonie¨ (in Hondius 2011: 388).

caste of slaves [Slavenstand]'.[134] Regarding the enslaved who were to be freed, the waiting time was extended to two years and they had to be able to show a certificate of good behaviour. When all these conditions were fulfilled, they would be able to obtain the status of 'Resident of the Colony'. The Dutch government aimed to further regulate the mobility of former people made into slaves, by binding the newly defined citizenship rights to the duty to personally live in the colony.[135] However, by introducing taxation for slave owners liberating their slaves (1843), by expanding the waiting period for freedmen to obtain citizenship rights (1844), and by a new law against vagrancy, former slaves held an ambiguous status, as every 'liberated' slave was assigned a patron. Neither were freedmen able to leave the colony on their own.

Slavery was abolished in 1862 on the Dutch East Indies and in 1863 on the West Indies. Through this abolishment, all enslaved bodies were transformed into persons. But equal citizenship was still not acquired by former slaves. Through the introduction of dual nationality in the Dutch East Indies, the population was divided into two classes: 'native' Dutch subjects and 'European' Dutch citizens in 1892. Where citizens had the exclusive right to leading positions in the colony, subjects were legally excluded from these positions. The dual citizenship system was embedded in racialized discourses in which those classified as 'natives' were constructed as people who carried essential biological and cultural traits and different legal needs. On the contrary, Europeans were represented as a group that had a special mission to uplift the 'natives'. Offspring of mixed-relations would receive the Dutch citizenship status, but did not enjoy equal opportunities in practice due to widespread skin-coloured discrimination in colonial Dutch society. Fair-skinned persons, predominantly male Dutch, but also Jews and fair-skinned Creoles, would dominate the colonies during the sovereign rule of the Netherlands between 1949-1975.[136]

Finally, as Jones critically poses, we might 'wonder to what extent the fruits of hundreds of years of legal anti-citizenship was helpful in not only creating the (material) conditions for the development of Dutch capitalism but the extension of social rights and the welfare state in the twentieth century Netherlands as well'.[137]

ROMA MINORITIES IN THE NETHERLANDS 1800-1900

Stigmatization of Roma continues in the mid-19th century, when groups of Hungarian tinkers crossed the Dutch border in 1868, followed by Bosnian bear-tamers. Both the Hungarians and Bosnians were categorised as 'gypsies' by the Dutch government and associated with the 'heathens' that had been expelled from the

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[134] Hondius, D. (2011). Access to the Netherlands of enslaved and free black Africans: Exploring legal and social historical practices in the sixteenth–nineteenth centuries. *Slavery & Abolition, 32*(3), 387.

[135] Ibid., 387-388.

[136] Jones, G., 2007. Tussen Onderdanen, Rijksgenoten, en Nederlanders. Nederlandse politici over burgers uit Oost and West en Nederland, 1945–2005. Amsterdam: Rozenberg.

[137] Jones, G. (2016). What Is New about Dutch Populism? Dutch Colonialism, Hierarchical Citizenship and Contemporary Populist Debates and Policies in the Netherlands. *Journal of Intercultural Studies, 37*(6), 609. The abolition of slavery did not mean an end to exploitative labour practices on the (former) colonies. Soon after slavery was abolished, tens of thousands of indentured contract workers, so called 'coolies', were brought, sometimes by force, to the Dutch Indies from India, China and Java to work on these new plantations. These workers laboured and lived no better than slaves. These workers suffered cruel treatment (and sometimes also violence), precarious labour conditions and a high death rate. The 'coolie trade' was not a Dutch invention, different western nations, such as England and the United States of America were guilty of similar practices. The 'coolie trade' would not be officially abolished until the beginning of the 20th century when governments of the homelands of these workers became involved ánd the labour of these workers was no longer necessary (Kloosterboer 1956).

Netherlands since 1750. The negative stigma of 'gypsy' was constructed by sentiments against destitute foreigners that were 'overrunning' the country and harassing (rural) populations. These 'newcomers' did comply with the criteria of the Aliens Act (1849) and a restrictive acceptance policy approach was taken. However, many municipal authorities took a more neutral attitude. The diverging attitude relates to the ability to support themselves legitimately, an assumption not considered by the central government. Nevertheless, the social and economic position of the 'gypsies' worsened, not due to what has often described as a decline of demand for their specialist products and services, but rather due to the repressive policies of the central government.[138]

In the Netherlands, the discourses on 'gypsies' as undesired aliens became more extensive from 1880 on. The increased negative sentiments could be partly related to the anti-'gypsy' policies in other countries such as the United States, Germany and Belgium. To add to this, the Dutch authorities were increasingly confronted with groups of 'gypsies' that had been sent back to the Netherlands from these countries. The Dutch were therefore also pressured into rejecting the entrance of these returnees. There was however no structural policy of rejection of 'gypsy' groups in the 19th century. The Department of Justice acted in case of incidents till in 1887 and 1900 circulars were issued against gypsies.[139]

From the perspective of these actually very diverse 'gypsy' groups the aim was not to settle in the Netherlands. Western Europe was by most groups seen as an intermediate station between 1860-1890. These groups were on their way to the United States and other overseas countries. From 1900's on groups of tinkers and bear-tamers arrived only occasionally in the Netherlands which did not resolve what was called 'gypsy problem' nor the alarming reporting the government.[140]

To re-cap, the French era kicked off a process by which the Dutch native population would increasingly enjoy more social and political rights, which was in stark contrast with the situation in the Dutch colonies. Slavery became slowly abolished, but instead the 'coolie' trade was introduced. It would take till the beginning of the 20th century before these exploitative practices were abolished and the living conditions for the indigenous populations in the colonies improved. Interestingly, in the mainland, newcomers that were referred to as 'gypsies' were tolerated on a local level as it was the common understanding that these groups were able to support themselves legitimately.

PILLARIZATION

In the meantime, in the now Kingdom of the Netherlands (1830 – today), different - religious -minority groups were fighting for scope for their own ideologies and ethics, not only as described in rules and law, but also practiced in government policy (and funding). Abraham Kuyper (1837-1920), was the initiator of the so-called 'pillarization', a political and societal consensus system made up by several denominational (Catholics, Christians, Jews) and ideological (socialist, liberals) pillars. Pillarization implies the philosophy of 'sphere sovereignty'; each sphere of life has its own distinct responsibilities and authority and stands equal to other spheres of life. Accordingly, neither faith nor political and other institution should seek total control or try to regulate activities in the other spheres. Kuyper argued that family life and the religious community should be free from the influence of the state. A practical implication of sphere sovereignty that Kuyper and his kindred spirits fought for, was the freedom of education for denominational Christian groups. In the first period of compulsory primary

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[138] Lucassen, L. (1991). The power of definition. Stigmatisation, minoritisation and ethnicity illustrated by the history of gypsies in the Netherlands. *Netherlands Journal of Social Sciences, 27,* 81.

[139] Ibid.*,* 83.

[140] Ibid., 81-83.

school education for all children, only public schools received state funding. Kuyper was of the opinion that also denominational schools should be supported by the state to realise the right of freedom of education. In the amendments of the constitution in 1917 – pillarization of Dutch society became a fact. Socialist and liberals finally agreed in exchange for women's suffrage; denominational schools would receive state support and general suffrage was implemented.

Pillarization would characterize Dutch society in the upcoming five decades from 1917 to the 1960's. Catholics and protestants established their own organizations in different domains of public life and non-religious segments of the population such as the socialists and liberals found themselves forced to organize their institutions in more or less the same way. In practice this meant that a great majority of the Dutch population would only participate in the institution of the specific pillar that they were a member of. The pillars stretched over trade unions, primary schools, high schools, universities, hospitals, (youth) social work organisations, newspapers, magazines, broadcasting associations, youth and student societies, leisure and sport societies.[141]

In sum, 'pillarization' as described by Lijphart (1975) in his book '*The Politics of Accommodation. Pluralism and Democracy in the Netherlands*' refers to a form of segregation, in which the society was divided into highly organized pillars - each based on its own denomination or ideology. In other words, pillarization is a form of institutionalized difference, mainly along vertical lines. However, while common people were divided and 'locked up' in their own pillar, the elites of the pillars coalited in state politics. Consultation and compromise were fundamental to the Dutch model of governance. This 'consensus model' involved in practice an extensive system of legislation and regulation that distributed the government finances and services among the different pillars. Likewise, policy making was performed by organizations within the pillars.[142] Some scholars, opinion makers and politicians have problematized the pillarization concept. They argue that pillarization was not as comprehensive as often argued. Quite some number of people did not belong to a pillar or refused to follow the institutional path of their specific religion.

In conclusion, Dutch society became structured according to previous existing religious groups – this was coined 'pillarization'. Whilst the demarcation of Dutch society in different religious 'pillars' was not new, as our analysis of the different majority and minority groups during the Dutch Republic underlines, pillarization was more comprehensive than before, involving both public and private spheres of social life.

THE NETHERLANDS, A(N) (UNWILLING) COUNTRY OF IMMIGRATION AFTER WW II

After World War II, the Netherlands typically welcomed three categories of migrants. Firstly, between 1945-1970s postcolonial migration from Indonesia and Suriname took place. Secondly, 'guest workers' (*Gastarbeiders*) were recruited from Southern European countries such as Spain and Italy, but also (former) Yugoslavia and later on Turkey and Morocco in the period 1950s – 1980s. Thirdly, since the 1990s refugees looked for shelter from former Yugoslavia, Iraq, Iran and Afghanistan, Somalia, Syria and Eritrea.[143] All of them were conceived as

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[141] Lijphart, A. (1975). The politics of accommodation: Pluralism and democracy in the Netherlands. Berkeley: University of California Press.

[142] Van Dam, P. (2015). Constructing a Modern Society Through 'Depillarization'. Understanding Post-War History as Gradual Change. *Journal of Historical Sociology, 28*(3), 291-313.

[143] Lucassen, J., & R. Penninx, (1997). *Newcomers: Immigrants and their Descendants in the Netherlands 1550-1995.* Amsterdam: het Spinhuis.

'minority cultures'.[144] The creation of minority cultures was not something new to the Dutch, as they had been living in a society in which minoritization of religious minority groups had been institutionalized for a long time.

POSTCOLONIAL MIGRATION: INDONESIA AND SURINAME

DECOLONISATION, CONFLICT AND WAR ON INDONESIA 1942-1950

Despite the Dutch ethical policy introduced to the Dutch Indies, nationalistic sentiment in the Indonesian archipelago grew. During this period, former British, French and American colonies in Asia and Africa fought for and declared independence against their colonial rulers. Likewise, in the Dutch Indies various parties arose who similarly strove for independence. The Dutch colonial regime felt threatened and took repressive measures. These groups were forbidden and the what later on would be the most important Nationalist Party of Indonesia (PNI) was outlawed. The leaders of PNI, including Sukarno and Mohammed Hatta, were sent to exile. The leaders would not return until the Japanese occupation of the Dutch Indies in 1942 during World War II. Stimulated by the Japanese occupation of Indonesia, and after its defeat in 1945, the Republic Indonesia was declared by Sukarno and Mohammed Hatta as respectively president and vice president.[145]

The Netherlands opposed the self-rule of the Indonesians[146] leading to the Indonesian War of Independence or *Perang Kemerdekaan Indonesia* (1945-1949). The Dutch eventually reoccupied its former colony, and decided to launch military actions, euphemistically called 'police actions' or *politionele acties*. In practice these involved excessive mass violence, resulting in the killings of into the tens and thousands of Indonesians, and the recapturing of the capital Djokojakarta.[147] The mass violence perpetuated by the Dutch received a storm of protest from all over the world. The United Nations and the United States of America called for a ceasefire on December 31, 1948. Under pressure by the international community, the Dutch were forced to abandon the Republic. Full sovereignty was transferred to the Indonesian Republic by July 1, 1950. On 17 August 1950, the fifth anniversary of the declaration of independence, the country was named *Negara Kesatuan Republic Indonesia* (NKRI) or the Republic of Indonesia. The recognition for the structural, excessive violence perpetuated by the Dutch military actions came as late as 2013.

A consequence of the war was immigration to the Netherlands of about 400,000 Dutch nationals and their mixed offspring who had been living on the Dutch Indies. Immigrants holding Dutch citizenship would be conceived as 'repatriates': those returning to their 'homeland', the Netherlands although many of these 'repatriates' had never been in the Netherlands. It was expected of these groups to directly incorporate into Dutch society though special policies focused on changing their habits and customs were absent and for a long period these immigrants

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[144] Schinkel, W. (2017). *Imagined Societies: A Critique of Immigrant Integration in Western Europe.* Cambridge: Cambridge University Press.

[145] Luttikhuis, B., & Moses, A. D. (2012). Mass violence and the end of the Dutch colonial empire in Indonesia. *Journal of Genocide Research*, *14*(3-4), 266.

[146] Luttikhuis, B., & C. Harinck, (2017). Voorbij het koloniale perspectief: Indonesische bronnen en het onderzoek naar de oorlog in Indonesië, 1945-1949. *BMGN-Low Countries Historical Review*, *132*(2), 51-76.

[147] Luttikhuis, B., & Moses, A. D. (2012). Mass violence and the end of the Dutch colonial empire in Indonesia. *Journal of Genocide Research*, *14*(3-4), 266.

would keep their own customs and speak in their own Dutch dialect. Nevertheless, the majority was able to find their way in Dutch society eventually.[148]

A special group involved those Indonesians from the Moluccas also known as Ambonese, as these groups primarily lived on the Island Ambon. The Moluccans involved 3500 military personnel from the KNIL (the Indigenous Dutch Army) who had their base on Eastern Java. These Indonesian militaries fighting for the Netherlands were unable to demobilize themselves. Therefore, they were ordered to, together with their families, in total about 12,000 persons, to move to the Netherlands, where they were dismissed of their military duties, finding themselves unemployed without proper military pensions, not having Dutch citizenship and trapped in between their homeland and their colonial ruler. Moluccans were housed in former military camps, lived segregated from the local Dutch. After these camps were absolved, they wanted to keep living together and therefore were given separate residential districts.[149]

POLITICAL AND ECONOMIC INSTABILITY OF SURINAME
The independence of Suriname in 1975 caused the migration of Surinamese to the Netherlands. In 1966, 13.000 Surinamese were living in the Netherlands, in 1972 this number had grown to 51.000, and to 145,000 Surinamese (out of 385,000 inhabitants of Suriname) in 1980. Previously, the Dutch government did not devise any policies of Surinamese migrants in the Netherlands – their numbers were too small to be important for policy making. However, after the numbers increased rapidly in the early 1970s, the Dutch government started to devise policies, based on a popular discourse of criminalization involving Surinamese migrants. Surinamese migrants had become associated with social problems, such as unemployment and crime in the 1970s.[150]

Causes for the immigration from Suriname are a lack of trust in domestic policy and economic instability. Economic opportunities in the Netherlands and a relaxed immigration policy further motivated Surinamese to migrate to the Netherlands. Interestingly, the Surinamese populations had received Dutch citizenship in 1954, which can be explained by lessons taken from the difficult decolonization process of Indonesia.[151] Lucassen and Penninx also mention the very diverse population of Suriname consisting of different ethnic or racial groups, an inheritance of the Dutch colonial history; Creoles (Maroons) of African descent (41%); Hindustani (38%) and Javanese (15%) populations and small groups of Amerindians, Chinese, Lebanese and Europeans.[152] Although the differences between the populations were not based on legal notions, like in the former Dutch Indies, in practice there were many differences. The groups lived and worked separately. They spoke different languages, had different customs and came from very different ethnic backgrounds. Even after their migration to the

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[148] Lucassen, J., & R. Penninx (1997). *Newcomers: Immigrants and their Descendants in the Netherlands 1550-1995.* Amsterdam: het Spinhuis, 39-41.

[149] Ibid., 41-42.

[150] Biervliet, W. E., F. Bovenkerk & A. J. F. Köbben, (1975). Surinaamse immigratie: overheidsbeleid en de rol van het sociale onderzoek. *Beleid en Maatschappij*, *2*(12), 337-341; Laarman, C. (2013). *Oude onbekenden: Het politieke en publieke debat over postkoloniale migranten in Nederland, 1945-2005.* Hilversum: Uitgeverij Verloren.

[151] Ibid., 178-184.

[152] Lucassen, J., & R. Penninx, (1997). *Newcomers: Immigrants and their Descendants in the Netherlands 1550-1995.* Amsterdam: het Spinhuis.

Netherlands, the differences between these groups would stay intact.[153] This high diversity has caused much tensions between the groups already in Suriname and.to a lack of trust that an independent Suriname would be able to bridge these differences between group. Accordingly, many Surinamese left for the Netherlands.[154]

NETHERLANDS ANTILLES AND CARIBBEAN NETHERLANDS

Migration from the formerly Netherlands Antilles [155] is often considered similar to the immigration from Suriname. However, immigration from the Antilles should be considered distinct from the other post-colonial migration waves as the Antilles are still part of the Kingdom of the Netherlands.[156]

Similar to the Surinamese before independence, the Antilleans could travel freely within the Kingdom of the Netherlands because they were considered Dutch citizens. Unfavourable economic developments on the Antilles have caused since the 1980s high emigration rates among its citizens. [157] Accordingly, the Dutch started problematizing immigration from the Antilles when the number of Antillean immigrants steeply increased in the 1990s. While some Dutch politicians unsuccessfully favoured a more restrictive migration regime, others argued that migration policy for the Antilles is unwarranted, as they are part of the Kingdom of the Netherlands and therefore have the right to move and settle within the Netherlands freely. The history of slavery played a role in this debate; the Dutch perceived that they had a responsibility as a former colonizer.[158]

(UNSKILLED) LABOUR MIGRATION

After the Second World War, the Netherlands expecting high population growth as well as high unemployed rates developed in reaction an active and planned emigration policy. Policy existed in active radio campaigns, courses for emigrants, agreements with Canada, Australia and the United States and premiums for those who wanted to leave the country. In the period 1949 – 1967 about half a million Dutch citizens emigrated. From the 1960s on however the country witnessed rapid economic growth resulting in structural shortages on the labour market. This stimulated rapid modernization of the Dutch industry as well as recruitment of migrant workers, the so called 'guest workers' (*gastarbeiders)*. With support of the Dutch government firms recruited personnel in Italy and Spain, then in former Yugoslavia and Greece, and from the mid 1960s from Turkey, Morocco and to a lesser extent, Tunisia. The Dutch authorities signed labour agreements in respectively 1964 with Turkey and

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[153] Ibid., 140-144.

[154] Lucassen, J., & R. Penninx (1997). *Newcomers: Immigrants and their Descendants in the Netherlands 1550-1995.* Amsterdam: het Spinhuis.

[155] The former Netherlands Antilles was a constituent state of the Kingdom of the Netherlands between 1954-2010 and included the islands Curacao, Bonaire, Sint Maarten, Sint Eustatius and Aruba. Since 2010, the constitutional status of the Netherlands Antilles was modified. Aruba, Curacao and Sint Maarten would become separate, constituent countries of the Kingdom of the Netherlands and the Island Bonaire, Sint Eustatius and Saba continued as three special municipalities of the Netherlands.

[156] Lucassen, J., & R. Penninx (1997). *Newcomers: Immigrants and their Descendants in the Netherlands 1550-1995.* Amsterdam: het Spinhuis, 46-47; Laarman, C. (2013). *Oude onbekenden: Het politieke en publieke debat over postkoloniale migranten in Nederland, 1945-2005*. Hilversum: Uitgeverij Verloren, 195-217.

[157] Jennissen, R. P. W. (2013). De instroom van buitenlandse arbeiders en de migratiegeschiedenis van Nederland na 1945. *Justitiële Verkenningen*, *39*(6), 14-15.

[158] Laarman, C. (2013). *Oude onbekenden: Het politieke en publieke debat over postkoloniale migranten in Nederland, 1945-2005*. Hilversum: Uitgeverij Verloren, 195-217.

1969 with Morocco and acted as a mediator in the recruitment. The recruiting companies were very selective; selected workers were mostly male, and below the age of 35 (if unskilled) or 45 years (if skilled).[159]

The Dutch anticipated that the migrant workers would stay temporarily and would leave at the time the modernization of industry would have been completed and the workers would have saved enough money to return to home. Indeed, southern European migrant workers returned in large numbers or married Dutch women. [160] However, migrant workers from Turkey and Morocco meanwhile brought their spouses and sometimes also their children to join them in the Netherlands. Immigration for family reunification within the Turkish and Moroccan community would continue in the following decades. Also, the second generation, children of migrant workers, continued to 'import' spouses from their (parents') country of origin. As a reaction to the increasing number of immigrants for family reunification, the Dutch authorities devised policies to restrict this practice. From 1993 on, the criteria to be eligible for family reunification were tightened. For instance, an income requirement was introduced to qualify for family reunification. Furthermore, the application for family reunification should be made within the first three years after arriving in the Netherlands. Requests for family formation would only be possible after staying at least 3 years in the Netherlands.[161]

Following the EU enlargement rounds in 2004 and 2007, there have been estimates of 340.000 Central and Eastern Europeans (CEE) who have moved into the Netherlands for work and/or permanent stay.[162] The main reason is high unemployment rates in CEE countries.[163] Most CEE migrants are Polish, followed by Bulgarians, Romanians and Hungarians. It has been assumed that these new migrants are all unskilled mobile workers, but further research has pointed out that a great number are (highly educated) migrants aiming at permanent settlement. The group of mobile workers has been able to satisfy Dutch employers, yet they have been perceived predominantly negatively by parts of the Dutch population. The problems that are related to CEE migrants involve unfair competition, a pressure on the welfare system, but also criminality and nuisance. Nuisance is according to several Dutch municipalities caused by high rates of homelessness and the overcrowding of

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[159] Jennissen, R. P. W. (2013). De instroom van buitenlandse arbeiders en de migratiegeschiedenis van Nederland na 1945. *Justitiële Verkenningen*, *39*(6), 11-20.

[160] Ibid., 19-20.

[161] Bonjour, S. (2007). Gezin en grens. Debat en beleidsvorming op het gebied van gezinsmigratie in Nederland sinds de jaren vijftig. *Migrantenstudies, 23*(1), 29. In 1993 it was demanded of couples to at least have an income of 70% of the social minimum to be able to start the procedure for family reunification. The income criteria for eligibility of family reunification increased to 100% of the social minimum with the Aliens Act in 2000 and to 120% in 2004 (Jennissen 2013: 21).

[162] Van der Heijden, P. G. ,M.J.L.F. Cruyff & G. van Gils, (2013). Aantallen geregistreerde en niet-geregistreerde burgers uit MOE-landen die in Nederland verblijven. Rapportage schattingen 2009 en 2010. Den Haag: Ministerie van Binnenlandse Zaken.

[163] Gijsberts, M. (2015). Het migratie-en vestigingsperspectief van migranten uit Midden-en Oost-Europa. In C. Huinder, A. Odé, K. de Vries, S. Bonjour, L. Coello Eertink & J. Dagevos (Eds). *Open grenzen, nieuwe uitdagingen: arbeidsmigratie uit Midden-en Oost-Europa. Jaarboek migratie en integratie*. Amsterdam: Amsterdam University Press.

dwellings. Municipalities and trade unions have also signalled that these mobile workers are very vulnerable to exploitation on the labour and housing market.[164]

The negative discourse applied to CEE migrants leaves little room for identifying differences between these new labour migrants. For instance, Romanians are relatively well-off, they are mostly highly educated, have high positions in the Dutch labour market and feel much at home in Dutch society. Bulgarians on the contrary experience more often problems on the Dutch labour market and are significantly lower educated.[165] Nevertheless, the negative discourse attracted much policy attention both on a national and a local level.[166] The National Bureau against Discrimination (Art. 1 2012) signals a shifting focus on which groups are considered problematic and CEE migrants are the new perceived 'outcasts'.

Finally, the new migration wave from Central and Eastern Europe has been connected to the increasing number of Roma populations in the Netherlands as it is very plausible that among the new 'regular' migrants from CEE countries, a number of 'Roma' can be found, although no real estimates have been made.[167]

REFUGEES

The war in former-Yugoslavia brought many refugees in the first half of the 1990s. In 1994 over 50,000 asylum applications were registered in the Netherlands, followed by many more during the last years of the 1990s due to the Kosovo-crisis. From 1997 the number of refugees increased because of wars in Afghanistan and Iraq. From 1994 until 2001 the number of asylum applications was constantly over 20.000. In the years that followed, the number fluctuated between 10.000 and 15.000 applications per year. Because of the tightened asylum procedure in Germany, the number of asylum requests in the Netherlands and other neighbouring countries increased again. The political reaction since 2001 was to tighten the asylum procedures with the introduction of the New Aliens Act,[168] implemented by the social-democratic under-minister, Cohen. The New Aliens Act among others implies more complicated legal procedures, less legal protection (the police now can enter a private home to get refugees out), new procedures to turn a temporary refugee status into a permanent citizenship status, and penalties for those who help refugees to enter the country. Accordingly, the number of refugees seeking asylum decreased till 2008 when Somalian and Iraqi migrants looked for refuge. The latter category lost protection in 2008. Similarly, on 19 May 2009, the categorical protection for citizens of Central and Southern Somalia is abolished and the number of asylum applications from Somalis fall sharply in the following years.[169]

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[164] Van Gestel, B., Van Straalen, E. K., Verhoeven, M. A., & R.F.D Kouwenberg, (2013). Overlast, lokaal beleid en arbeidsmigranten uit Midden-en Oost-Europa. *Resultaten uit een kwalitatief onderzoek*. Den Haag: WODC.

[165] Gijsberts, M. (2015). Het migratie-en vestigingsperspectief van migranten uit Midden-en Oost-Europa. In C. Huinder, A. Odé, K. de Vries, S. Bonjour, L. Coello Eertink & J. Dagevos (Eds.). *Open grenzen, nieuwe uitdagingen: arbeidsmigratie uit Midden-en Oost-Europa. Jaarboek migratie en integratie*. Amsterdam: Amsterdam University Press, 20-21.

[166] Kremer, M. & E. Schrijvers (2014). Roemeense en Bulgaarse arbeidsmigratie in betere banen, WRR-Policy Brief nr.1. Den Haag: WRR.

[167] Tammes, P. & P. Scholten, (2017). Assimilation of ethnic-religious minorities in the Netherlands: a historical-sociological analysis of pre-world war II Jews and contemporary Muslism. *Social Science History, 41*(3), 477-504.

[168] Ministerie van Justitie (2000) *Vreemdelingenwet 2000*. Den Haag: Ministerie van Justitie. Retrieved at June 9, 2018 from: http://wetten.overheid.nl/BWBR0011823/2018-05-01.

[169] Vluchtelingenwerk Nederland (2012). Vluchtelingen in getallen 2012, © VluchtelingenWerk Nederland, juni 2012   Retrieved   at   June   9,   218   from

The most recent group of refugees fled from Syria and are submitted to the strictest asylum regime of 2001. However, the current Dutch government intends to even more restrict living conditions of these refugees, for instance by substituting their social assistance benefit by a 'living money' benefit, which will limit their opportunities to spend their own monthly budget for issues like healthcare, childcare, schools and digital equipment. Currently about 60.000 refugees from Syria arrived in the Netherlands.[170]

DISCURSIVE MINORITY POLICIES 1980-2013

In the years after the dissolution of the pillarized Dutch society new minority politics evolved, this time focused on minorities from abroad. Official minority policy was devised with the report 'Ethnic Minorities',[171] paying special attention to what is seen as problems caused by newcomers.[172] The way the ethnic minority inclusion policies functioned, was until 2001 to a great extent similar to the organization of pillars in the broader Dutch society.[173] Dutch minority policies financed and organized migrant associations representing minority groups. These so called 'minority group pillars' were part of the national consultative body for Government advice on ethnic minority affairs, *het Landelijk overleg en adviesorgaan.* Groups taking seat in this consultative body were: Turks, Moroccans and Tunisians, South- Europeans, Surinamese, Antilleans, refugees, travellers and gypsies. In 1997, with the passing of a new law on minority inclusion policies (*Wet Overleg Minderhedenbeleid*) minority inclusion policies was reorganized and the Travellers and Gypsies were left out.; they were from then on considered to be the responsibility of local government.[174]

During the era of minority inclusion policies a discursive binary was introduced by Entzinger as a member of the Scientific Advisory Council of the Government (WRR) titled 'Allochthon Policy' (Allochtonenbeleid) in 1989. Until 2016, the Dutch migration discourse would become dominated by the contrasting concepts of 'allochthons' versus 'authochthons'. 'Allochthon' refers to people living in the Netherlands with a migrant background. Migration status does not matter, one may be a Dutch citizen and still be categorized as 'allochthon'. 'Authochthon' refers to the 'indigenous' white populations of the Netherlands. The Central Bureau of Statistics has registered people as 'allochton' if they or one of their parents is born in a non-European country, apart from the Common Wealth, Japan and Indonesia. While this binary thinking has been under much debate by both politicians and scholars,[175] this binary idiom would only officially be abolished in 2016, after the same Scientific

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https://www.vluchtelingenwerk.nl/sites/public/Vluchtelingenwerk/migrate/pdf-bibliotheek/VLUCHTELINGEN_IN_GETALLEN_2012_def_OO_copy.pdf?phpMyAdmin=7w5ZyEx7eG8GI5V6d7lLiau64Ca&phpMyAdmin=d103b040daaa28b558cce86d2a2af0e5.

[170] Vluchtelingenwerk Nederland (2017) Vluchtelingen in getallen. Retrieved from: https://www.vluchtelingenwerk.nl/sites/public/u152/Vluchtelingeningetallen2017compleet-1.pdf.

[171] WRR (1979). *Etnische minderheden*. A. Rapport aan de regering. B. Naar een algemeen etnische minderhedenbeleid? 's-Gravenhage: Staatsuitgeverij.

[172] Schinkel, W. (2017). *Imagined Societies: A Critique of Immigrant Integration in Western Europe.* Cambridge: Cambridge University Press, 89.

[173] Musch, E. (2010). Overlegstructuren in het integratiebeleid. Nederland en Duitsland vergeleken. *Migrantenstudies (2), 101-120.*

[174] Ibid., 111-114.

[175] Schinkel, W. (2017). *Imagined Societies: A Critique of Immigrant Integration in Western Europe.* Cambridge: Cambridge University Press.

Advisory Council advised to substitute 'allochthon' by 'people with a migration background'.[176] The WRR argues now that the concepts of 'allochthons' and 'authochthons' are no longer applicable to the contemporary societal context, and – unintendedly – has fuelled binary thinking in Dutch society.

Next to the change in policy idiom, also a change has been made in the way the Dutch government tackles social inclusion/exclusion of minority groups in society. Where Dutch migration policy was devised for specific minority groups (e.g. Turk, Moroccans, Surinamese, Antilleans and Chinese), since 2010 the focus is on 'problematic social categories' often referring to social class and/or multi-problem families.[177]

MULTI-CULTURAL DRAMA AND POPULISM

On January 29, 2000 Paul Scheffer, a Dutch publicist published the essay 'The Multicultural Drama' in which he posed the thesis that the integration of (former) guest workers from Turkey and Morocco and their offspring had failed. He argued that despite specially devised integration policies, these migrants were still not 'integrated': the societal position of these groups was lagging behind and was characterized by high unemployment and crime rates, and poor educational outcomes. According to Scheffer, this failed integration is a threat to Dutch society. The failure was in his perspective caused by lax migration policies and a misplaced tolerance towards cultural differences. The essay by Scheffer sparked much societal debate on the position of migrant minorities in the Netherlands and led to what would be remembered as the 'integration debate', which was not only about multiculturalism, but about immigration, Islam, the Dutch national identity and national unity.

The integration debate became increasingly important in Dutch politics and especially during the 2002 parliamentary elections where Pim Fortuyn (1948-2002), Dutch politician, dandy and former professor of sociology gained a tremendous following for his anti-immigration and anti-elite views. His political agenda involved a stop to immigration of Muslims, and abolishment of the anti-discrimination principle in Dutch law in name of the freedom of speech. After Fortuyn's assassination by an environmental activist in 2002, right-wing politicians such as Geert Wilders, continued the radical right agenda by focussing on cultural assimilation, immigration and integration. In the 2017 elections the radical right party Partij voor de Vrijheid (PVV) became the second largest political party of the country.

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[176] WRR (2016). *Migratie en classificatie: naar een meervoudig migratie idioom*. Den Haag: WRR.

[177] Dagevos, J., C. Huinder & A. Odé, (2013). van specifiek naar generiek: het integratiebeleid afbouwen of verbouwen? Een inleiding. In L. Coello, J. Dagevos, J. Van der Leun, & A. Odé (Eds.). *Het Minderhedenbeleid voorbij. Motieven en gevolgen* (pp. 11-23.). Amsterdam: Amsterdam University Press, 11.

AUSTRIA

Isabella Meier and Maddalena Vivona

THE 'VIELVÖLKER-STAAT' AND THE ORIGINS OF MINORITY POLICIES IN AUSTRIA

The origin of minority policies in Austria is linked to the Habsburg monarchy and the geopolitics that followed its fall. In the XIX century the Habsburg monarchy was conceived as a '*Vielvölker-Staat*' (multi ethnic state), with 11 officially recognised languages. The multi-ethnicity of the Austrian empire was casted in art 19 (1) of the Basic Law on the General Rights of Nationals: 'All the ethnic entities of the empire enjoy equal rights, and each ethnic entity has an inviolable right to the preservation and fostering of its nationality and language'.[178] Not only Austria recognized the equal rights of its ethnic groups, but it also provided for their rights to be educated in their national language as well as to use their national language in interacting with public authorities and in public spaces.[179] Bender-Säbelkampf states that, considering also the rich case law of the Royal Tribunal as well as the Higher Administrative Court on Art. 19, Austrian system of protection of minorities at the time was one of the most developed worldwide.[180]

With the dissolution of the monarchy after the First World War and the creation of the Austrian Republic in 1918, the majority of the population left in the Austrian territory was German speaking. During the negotiations of the Treaty of St. Germaine and in the wake of nationalists movements, the Austrian representatives suggested to call the first Republic '*Deutschösterreich*'. While the suggestion was rejected by the Allied, German was introduced in the constitution as national language.[181]

The Treaty of Saint Germaine for the first time introduces particular provisions applicable to ethnic minorities and allowed certain ethnic groups to autonomously decide to which country they wished to belong: the inhabitants of South Carinthia (this possibility was not contemplated for the Hungarian and Croats minorities in Burgenland) were thus able to decide by referendum to which state they wished to belong. The referendum was held in 1920 with a result in favor of remain part of Austria.[182] The Treaty of Saint Germaine contains also provisions for the protection of national minorities, in particular for the Slovenian in Carinthia and the Roma,

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[178] Staatsgrundgesetz über die allgemeinen Rechte der Staatsbürger of 21 December 1867 RGBl. Nr. 142/1867, www.ris.bka.gv.at/NormDokument.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10000006&FassungVom=2017-10-18&Artikel=19&Paragraf=&Anlage=&Uebergangsrecht=, Art. 19 (1).

[179] Staatsgrundgesetz über die allgemeinen Rechte der Staatsbürger of 21 December 1867 RGBl. Nr. 142/1867, www.ris.bka.gv.at/NormDokument.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10000006&FassungVom=2017-10-18&Artikel=19&Paragraf=&Anlage=&Uebergangsrecht=, Art. 19 (2).

[180] Anna Bader-Säbelkampf, *Demokratie der ethnischen Minderheiten: Repräsentation und Partizipation in Österreich und der Europäische Union* (Nomos 2012).

[181] Niku Dorostkar, *(Mehr-)Sprachigkeit und Lingualismus. Die diskursive Konstruktion von Sprache im Kontext nationaler und supranationaler Sprachenpolitik am Beispiel Österreichs* (Vienna University Press, 2014), p. 137; Ruth Wodak, Rudolf de Cillia, Martin Reisigl and Karin Liebhart, *The Discursive Construction of National Identity* (Edinburgh University Press 2009), 51.

[182] Only later, with the Protocoll of Venice of 1921 between Austria and Hungary, the two states allowed the population of Ödenburg to decide to which country they wished to belong. As a result the city of Sopron remained to Hungary.

Hungarian and Croatian in Burgenland:[183] Section V offers people belonging to minorities an individual protection against discrimination[184] and Art. 62 of the Treaty state that 'this section shall be recognized as fundamental law, and that no law, regulation or official action shall conflict or interfere with these stipulations, nor shall any law, regulation or official action prevail over them'.[185] Art 67 and 68 of the Treaty, further allow those minorities (defined according to 'race', religion or language) to be taught in their own language in those areas in which a significant number of people speak a different language than German.[186] The introduction of the wording 'race', instead of ethnic groups, in the Treaty of Saint Germaine, brought to a decision of the Austrian administrative Court in 1923 according to which 'race is to be judged objectively as 'belonging to an ethnic group', that can be established through ancestry and 'in no way this can be considered as belonging to a subjective decision'. Although Baumgartner reports that this decision had no immediate effects, it clearly shows how 'race' was understood in this period. [187]

In 1938, with the 'Anschluss' of Austria to the Third Reich, some minorities became object of expulsion and persecution: particularly affected were the Jews, the Slovenian in Carinthia, the Roma and Sinti in Burgenland[188] and the Czech in Vienna. The persecution of minorities was however not generalized: in Burgenland for example, members of some national minorities, were also member of NS organizations.[189] This period is particularly important for Roma identity building, as will be shown later on: while Roma were persecuted as well as other minorities, it took a long time for Roma to be recognized as such. Due to the fact that most Austrian Roma were detained in labour camps around the country (the most famous one being the one in Lackenbach) and the fact that under the Victims Welfare Act of 1947 only victims der NS regime who were detained in concentration camps could receive a pension, most of the Austrian Roma did not received, or received very little, compensation for the atrocities perpetrated against them by the NS regime. While in 1961, an amendment of the Victims Welfare Act offered a little restitution dependent on the number of months spent in labor camps, it was only in

[183] Treaty of Saint-Germain-en-Laye of 10th September 1919,BGBl. III Nr. 179/2002, <http://treaties.fco.gov.uk/docs/pdf/1919/TS0011.pdf>, Art. 49.

[184] Treaty of Saint-Germain-en-Laye of 10th September 1919,BGBl. III Nr. 179/2002, Art 63; Stefan Hammer, ,Das Recht der autochtonen Minderheiten in Österreich', in Christoph Pan and Beate Sibylle Pfeil (eds.): *Zur Entstehung des modernen Minderheitenschutzes in Europa* (Springer 2006), Volume 3, 304.

[185] Treaty of Saint-Germain-en-Laye of 10th September 1919,BGBl. III Nr. 179/2002, Art 62.

[186] Treaty of Saint-Germain-en-Laye of 10th September 1919,BGBl. III Nr. 179/2002, Art 68 .

[187] Gerhard Baumgartner und Florian Freund, ,Der Holocaust an den Österreichischen Roma und Sinti', <www.romasintigenocide.eu/media/neutral/holocaustBGFF.pdf>, 6

[188] Gerhard Baumgartner , 'The Road Towards Genocide: The Process of Exclusion and Persecution of Roma and Sinti in the 1930s and 1940s', in: S:I.M.O.N. – Shoah: Intervention. Methods. Documentation. (2014) 1, <http://simon.vwi.ac.at/images/Documents/Articles/2014-1/2014-1_ART_Baumgartner/ART_Baumgartner.pdf>, 5-18.

[189] Gerhard Baumgartner und Florian Freund, *Die Burgenland Roma 1945-2000: Eine Darstellung der Volksgruppe auf der Basis archivalischer und statistischer Quellen* (Kulturvereins der Österreichischer Roma 2004), 194.

1988 that labor camps were at all effect compared to concentration camps, thus enabling victims and their families to receive a state pension as compensation.[190]

The Austrian State Treaty of 1955[191] incorporated particular safeguards only for the Slovenian and Croatian minorities (those minorities for which Russia and Yugoslavia stood up for):[192] minority politics appears thus to be dependent on the foreign policies involving their 'mother state'.[193] The fact that Austria is a federal state in which legislative and executive powers are shared by the federal and provincial governments allows regional governments to influence the way minorities issues are dealt within their territory. In Burgenland for example the *Landesschulgesetz* (Provincial School Act) of 1937 was maintained in placed, allowing those municipality in which language minorities represented more that 70% of the population, to hold classes in the minority language.[194]

THE AUSTRIAN ETHNIC GROUP ACT

The Austrian Ethnic Group Act was born in a time characterized by an active political engagement that increasingly understood minority issues as democratic issues.[195] The '70s were also characterized by a shift towards mass mobilisation taking place outside the traditional democratic fora. The Austrian Ethnic Group Act was thus an attempt of the government not only to offer a more uniform legal framework on minority issues, but also to bring minority politics back into an institutional frame. It is also interesting to note that in some ways Austria was developing its minority rights law, while other countries were focusing on 'more general' human rights issues: building on its past, Austria was setting a standard for future initiatives.[196]

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[190] Opferfürsorgegesetz - Bundesgesetz über die Fürsorge für die Opfer des Kampfes um ein freies, demokratisches Österreich und die Opfer politischer Verfolgung, BGBl. 183/1947, last amended by BGBl. I Nr. 152/2017, www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10008113; Gerhard Baumgartner, The Road Towards Genocide. The Process of Exclusion and Persecution of Roma and Sinti in the 1930s and 1940s, in: S:I.M.O.N. – Shoah: Intervention. Methods. Documentation. 1 (2014) 1, 5-18.

Gerhard Baumgartner und Florian Freund, Der Holocaust an den Österreischen Roma und Sinti, <www.romasintigenocide.eu/media/neutral/holocaustBGFF.pdf>;

[191] Staatsvertrag betreffend die Wiederherstellung eines unabhängigen und demokratischen Österreich, BGBl. Nr. 152/1955, <www.ris.bka.gv.at/Dokumente/BgblPdf/1955_152_0/1955_152_0.pdf>.

[192] Gerhard Baumgartner und Florian Freund, *Die Burgenland Roma 1945-2000: Eine Darstellung der Volksgruppe auf der Basis archivalischer und statistischer Quellen* (Kulturvereins der Österreichischer Roma 2004), p. 195; Stefan Hammer, ,Das Recht der autochtonen Minderheiten in Österreich', in Christoph Pan and Beate Sibylle Pfeil (eds.): *Zur Entstehung des modernen Minderheitenschutzes in Europa* (Springer 2006), Volume 3, 304-305.

[193] Gerhard Baumgartner und Florian Freund, *Die Burgenland Roma 1945-2000: Eine Darstellung der Volksgruppe auf der Basis archivalischer und statistischer Quellen* (Kulturvereins der Österreichischer Roma 2004), 194.

[194] Gerhard Baumgartner und Florian Freund, *Die Burgenland Roma 1945-2000: Eine Darstellung der Volksgruppe auf der Basis archivalischer und statistischer Quellen* (Kulturvereins der Österreichischer Roma 2004), 195.

[195] Gerhard Baumgartner und Florian Freund, *Die Burgenland Roma 1945-2000: Eine Darstellung der Volksgruppe auf der Basis archivalischer und statistischer Quellen* (Kulturvereins der Österreichischer Roma 2004), 198.

[196] Beate Sibylle Pfeil, ,Zur Novellierung des Österreichischen Volksgruppengesetzes: Einführung und Kommentar', in: 5 Europäisches Journal für Minderheitenfragen (2012) 2, 88-99.

The Act provides a definition of national minorities as those Austrian nationals 'living and residing in parts of the federal territory whose mother tongue is not German and who have their own traditions and folklore'.[197] While the definition is left open, and in principle foresees the possibility of ethnic groups to become a recognized national minority, the legal requirement of the *'Beheimatung'* (being rooted in the Austrian territory) however does not allow for recently formed minorities to acquire this status and has been used in some cases to deny national minority status to certain minorities. The Polish minority for example has tried for years to be recognized as a national minority without success.[198] The decision about which ethnic groups qualify as national minority, according to Art. 2 of the Ethnic Group Act, is a decision of the Federal Government, taken in coordination with the National Council after having consulted the affected provincial government.[199]

The Austrian Ethnic Group Act was not positively received by minority groups. One issue of controversy was the fact that Ethnic Group Advisory Boards only have advisory function. Furthermore only half of the Ethnic Group Advisory Boards members are to be selected by the federal government from a list of persons proposed by the organisations representing minority groups, thus allowing the federal government to exert influence on who sits on the Boards.[200] Wakounig describes this period as follows: 'With this law the rulers aimed at establishing a total control over minority politics'.[201]

The main issue of controversy however was the government proposal to amend the National Census Act to include a 'confidential mother-tongue census' (*geheime Erhebung der Muttersprache*). The amendment to the census and the Ethnic Group Act were to be approved together. Minority groups saw the amendment to the Census Act as a way to establish ethnic group affiliation, against one of the basic principles that protect the freedom of members of the national minorities to declare their association with a national minority.[202] Irrespective of the opinion of minority groups on the matters, the Ethnic Group Act and the amendment to the Census Act were approved by the Parliament.[203] The Confidential mother tongue census was conducted only once in Carinthia in 1976: minority groups representatives campaigned against the census, inviting all those not

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[197] Volksgruppengesetz - Bundesgesetz über die Rechtsstellung der Volksgruppen in Österreich, BGBl. Nr. 396/1976, last amended by BGBl. I Nr. 84/2013, Art 1 (2).

[198] Ania Haar, Polen wollen als Volksgruppe anerkannt werden', in Die Presse of 5th April 2011, <https://diepresse.com/home/panorama/integration/647924/Polen-wollen-als-Volksgruppe-anerkannt-werden> .

[199] Volksgruppengesetz - Bundesgesetz über die Rechtsstellung der Volksgruppen in Österreich, BGBl. Nr. 396/1976, last amended by BGBl. I Nr. 84/2013, Art 2.

[200] Verordnung über die Volksgruppenbeiräte, BGBl. Nr. 38/1977.

[201] Vladimir Wakounig, ‚Das Volksgruppengesetz – Eine heimliche politische Entmündigung' in: STIMME von und für Minderheiten (59/2006), <http://minderheiten.at/stat/stimme/stimme59b.

[202] This principle has been later casted for example in Art. 3 of the Council of Europe Framework Convention for the Protection of National Minorities.

[203] Volksgruppengesetz - Bundesgesetz über die Rechtsstellung der Volksgruppen in Österreich, BGBl. Nr. 396/1976; Änderung des Volkszählungsgesetzes (BGBl. Nr. 159/1950) BGBl. 398/1976, <www.ris.bka.gv.at/Dokumente/BgblPdf/1976_398_0/1976_398_0.pdf>.

belonging to a minority group to select one of the minority languages in order to make the data useless.[204] With the changing of the census system to the registration system in 2006 no more question about language of everyday use is collected.[205]

The Hungarian minority in Burgenland was the first group to demand to be officially recognized as minority and became an Ethnic Group Advisory Board in 1979.[206] The other minority groups (Burgenland Croats, Slovenes, Czechs, Slovaks and Roma) strongly opposed the Ethnic Group Act: almost 15 years passed until they were officially recognized.[207]

An attempt to amend the Ethnic Group Act was undertaken in 2012. Aim of the amendment was to update the definitions on the rights of national minorities and bring them into line with a modern and pluralistic society. Furthermore, the Amendment aimed to modify the Ethnic Group Advisory Boards, as well as the funding regulations for national minorities.[208] The amendment was criticized by the representatives of ethnic minorities groups, who perceived the amendment as a step back and not a step forward. In particular the amendment was criticized for 'diminishing' the role of the Ethnic Group Advisory Boards to councillors of the Federal Chancellor and not of the Parliament or the Federal Government. Pfeil highlights how the discussions around the amendment of the Ethnic Group Act revolved around two different conceptualisations of a pluralistic society, one whose target is the abolition of the distinction between autochthone and allochthone minorities and therefore highlights the importance of the individual rights not to be discriminated against and a different conceptualisation of minority issues that focuses additionally on the collective rights of these national minorities and therefore highlights also the importance of positive discrimination in guaranteeing their existence.[209]

NATIONAL MINORITIES IN AUSTRIA

National Minorities in Austria are understood as ethnic groups linked to neighbouring countries that due to changing political landscapes (boundaries) remained within the Austrian territory. It is interesting to note how in

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[204] Gerhard Baumgartner und Florian Freund, *Die Burgenland Roma 1945-2000: Eine Darstellung der Volksgruppe auf der Basis archivalischer und statistischer Quellen* (Kulturvereins der Österreichischer Roma 2004), 200-201.

[205] Gerhard Baumgartner und Florian Freund, *Die Burgenland Roma 1945-2000: Eine Darstellung der Volksgruppe auf der Basis archivalischer und statistischer Quellen* (Kulturvereins der Österreichischer Roma 2004), 199-200.

[206] Gerhard Baumgartner und Florian Freund, *Die Burgenland Roma 1945-2000: Eine Darstellung der Volksgruppe auf der Basis archivalischer und statistischer Quellen* (Kulturvereins der Österreichischer Roma 2004), 201.

[207] The Advisory Board of the Slovenian minority was created in 1989. In 1992 the Advisory Board for the Slovak minority and the Hungarian Advisory Board, originally comprising only Burgenland Hungarians, was extended to include also the Hungarian minority in Vienna (consisting of refugees from migration flows of 1945, 1948, 1956). The Roma were officially recognized in 1993.

[208] Austrian Federal Government, Explanation to the Draft Amendment to the Austrian Ethnic Group Act, <www.ris.bka.gv.at/Dokumente/Begut/BEGUT_COO_2026_100_2_734252/COO_2026_100_2_734323.html>.

[209] Beate Sibylle Pfeil, ,Zur Novellierung des Österreichischen Volksgruppengesetzes: Einführung und Kommentar', in: 5 Europäisches Journal für Minderheitenfragen (2012) 2, 88-99.

German national minorities are still defined as 'Volksgruppen' (population segment) and not as 'Minderheiten' (minorities).[210]

Further consideration could be given to the relation between the various minorities and the Austrian majority, depending on their 'willingness' to integrate and the surrounding political context. It seems that some minorities were/are more easily accepted/less persecuted, while other had/have a more difficult life. Hereafter we sketch some background on each of the key minority groups.

THE CROAT MINORITY IN BURGENLAND

More than 450 years ago, Croats settled in what was then Western Hungary (and today comprises the Burgenland, the border region of Western Hungary, parts of Lower Austria, Slovakia and the Czech Republic). After 1848 the development of a Croat sense of identity became apparent. The fact that many people in Burgenland commute to Vienna every day or every week, a development which started as early as between the two World Wars, and the increasing exodus from these areas have encouraged assimilation tendencies among many Croats. In order to counteract the danger of losing their identity in a city as big as Vienna, the 'Croatian-Burgenland Cultural Association in Vienna' (Kroatisch-Burgenländischer Kulturverein in Wien) was established in 1934, and - like the Vienna-based 'Croatian Club of Academics' (Kroatischer Akademikerklub) - has succeeded in increasing its influence in the last few decades, as it was given a say in matters concerning the Burgenland Croats. It was at a very early stage that the Croats embarked on the road to integration and did so in every respect, be it in the social, economic, professional or political field. This enabled them to implement many measures required for maintaining and cultivating their language and culture.

Today, Burgenland Croats live in about 50 municipalities in Burgenland. The settlements are scattered as language islands all over the entire federal province. There is no closed settlement area. In addition, Burgenland Croats live in Vienna. [211]

THE SLOVENE MINORITY

Around 1,400 years ago, the first Slovenes (the Slovenes of the Alps) settled, inter alia, in the regions of Carinthia and Styria; however, as a result of immigration and settlement of farmers from Bavaria and Franconia, which was supported from the 9th century onwards by East Franconian rulers, more and more Slovenes had to retreat in the Middle Ages to south and south-east Carinthia and to parts of Styria in the course of mutual assimilation processes.

In the 15th century, a language boundary was thus established in Carinthia running along the line of Hermagor-Villach-Maria Saal-Diex-Lavamünd; it largely remained in existence until the mid-19th century.

The Nationalist tendencies which in the mid-19th century became evident also in Carinthia, created the basis for ethnic-motivated conflicts. Apart from ethnic differences, there were also ideological ones; while the Slovenes found strong support in the Roman Catholic Church, the Germans considered liberal ideas to be of central importance. The development of tourism, industry and trade in the second half of the 19th century fostered the use of the German language and enhanced the assimilation process. Closer contacts between the Slovenes in

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[210] Austrian Government, Second Report Submitted by Austria pursuant to Art. 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities, ACFC/SR/II(2006)008 of 1 December 2006, 17.

[211] Austrian Government, Second Report Submitted by Austria pursuant to Art. 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities, ACFC/SR/II(2006)008 of 1 December 2006, 18-19.

Carinthia and Slovenes in Carniola and other crown lands also contributed to an increased ethnic separation. With the breakdown of the Austro-Hungarian Empire, the question of national assignment and of re-defining the boundaries of Carinthia became topical issues. The Treaty of Saint-Germain stipulated that two Carinthian regions settled exclusively (Seeland) or largely (Mieß valley) by Slovenes, be ceded to Yugoslavia; it also called for a plebiscite be held for determining the most important issue, viz. whether South Carinthia should be part of Austria or Yugoslavia. The result of the plebiscite held on 10 October 1920, showed a 59% vote for Austria, meaning that the territorial unity of Carinthia was essentially preserved. Prior to the plebiscite, the Provisional Regional Assembly of Carinthia, in a resolution adopted on 28 September 1920, appealed to the Carinthian Slovenes, committing itself to 'preserving the linguistic and national identity of the Slovene fellow citizens here and now and forever, and to showing the same care in promoting their intellectual and economic prosperity as for the country's German inhabitants'. According to estimates, around 12,000 Slovenes voted for Austria in the plebiscite.

From that time onwards, Austria's minority policy - apart from concentrating on the Czechs in Vienna, focused on Slovene issues in Carinthia; complaints were also submitted to the League of Nations. Several years of negotiations in the second half of the 1920s that were aimed at creating a cultural autonomy of Carinthian Slovenes, which implied, inter alia, a declaration of one's affiliation to the 'Slovene community' (as a 'community of a public law nature') through an entry into the 'book of the Slovene people' (slowenisches Volksbuch), brought not positive results. During the Nazi period, the Slovenes were persecuted, and from 1942 onwards many were forced to emigrate.

During the Post-war Period, a broad ideological and political gap within the group soon became apparent, which was due, inter alia, to the conflict between Catholicism and Communism and to the territorial claims that were repeatedly raised by Yugoslavia in respect of South Carinthia until 1949, whereby the existence of the Slovene minority was used as a justification. The latter issue was not finally resolved until 1955. Efforts aimed at implementing and extending the rights of minorities and their protection as enshrined in Article 7 of the State Treaty of 1955 and a modern interpretation of this provision, have frequently been a topic on the political agenda. Although it clearly emanates from the wording of the Treaty that these rights do not only relate to the Slovenes in Carinthia but to 'the Slovene and Croat minorities in Carinthia, Burgenland and Styria', disputes of a more spectacular nature have so far been confined to the Carinthian region; here we would like to mention in particular the school strike of 1958 against the hitherto - since 1945 - obligatory bilingual instruction, the conflict regarding place-name signs of 1972 and the protests against the secret native language survey of 1976. The historic roots of the greater conflict potential apparently lie in the territorial disputes outlined above.[212]

THE HUNGARIAN MINORITY

The predecessors of today's Hungarian minority were early settlers whose task was to protect the western border for the Hungarian kings. In 1921, the Burgenland became part of Austria and the Hungarians living in that region a minority.

While the minority was free to maintain contacts with Hungary between the two wars, this was not so after World War II. As it was the case with the Croats in Burgenland, the economic changes after 1945 led to an increased rural exodus and commuting; there was also a general tendency of doing part-time farming or seeking industrial work. This social change - in the same way as the Iron Curtain - called into question the established value of Hungarian as a mother tongue and led to a strong linguistic assimilation, which could only be

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[212] Austrian Government, Second Report Submitted by Austria pursuant to Art. 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities, ACFC/SR/II(2006)008 of 1 December 2006, 19-21.

counteracted through intensive private education. Since many 30-to-60-year-olds no longer have a command of Hungarian today, the emphasis is rather on the bilingual work with young children and juveniles.

The fall of the Iron Curtain has had a very positive effect for the Hungarians in Burgenland. The fact that it was now easier for them to get in contact with friends and relatives in Hungary, has strengthened their identity.

The present settlement area comprises the regions of Oberwart (Oberwart, Unterwart, Siget in der Wart) and Oberpullendorf (Oberpullendorf, Mittelpullendorf). Burgenland Hungarians also live in larger places and towns such as Eisenstadt and Frauenkirchen. Hungarian families have been living in Graz and Vienna already for many centuries. Today, the number of Hungarians in Vienna exceeds by far those in Burgenland.

The situation of the Hungarian linguistic community in Vienna was strongly influenced by three big waves of emigrants and refugees from Hungary in 1945, 1948 and 1956. In 1992, the Hungarians living in Vienna were recognised as part of the Hungarian minority, and since then have their own representatives in the Hungarian Minority Advisory Council established as early as in 1977 in accordance with the pertinent legal provisions.[213]

THE CZECH MINORITY

Since the days when king Premysl Otakar ruled the country, Czechs have settled in Vienna. So enormous were the waves of immigrants at the end of the 18th century that proclamations also had to be published in Czech in the Vienna suburbs. The immigration wave reached its climax between 1880 and 1890 when more than 200,000 Czechs, in particular workers and craftsmen, came to Vienna. The majority of the Czech associations still in existence today were founded between 1860 and 1890. The Czech heyday in Vienna was certainly after the turn of the century. At that time, Vienna was also the second-largest Czech city in the world, its Czech population being outnumbered only by that of Prague. Despite strong political resistance, the first independent Czech schools were established in that period. It was thanks to the great variety of Czech industries, crafts, associations, banks, newspapers and the political parties as well as to the extensive social activities pursued by numerous associations that in those days Czech invariably became the language that was used almost exclusively by the minority in everyday life.

Two big waves of returnees after World War II reduced the number of Czechs in Vienna by 50% each. Until the 1960s, the number further declined, reaching its lowest point in 1968. As a result of the situation in Czechoslovakia in 1968 and 1969, many Czechs settled in Vienna. The Czech linguistic community increased again after the quelling of the 'Prague Spring' of 1968/69 when 10,000 Czechoslovak citizens applied for political asylum in Austria.

Since 1945, the situation of the Czechs in Vienna has been characterised on the one hand by a strong dependence on the political situation in former Czechoslovakia, and on the other hand by the fact that they have developed a certain independence, which was also encouraged by the existence of the Iron Curtain. A major problem in the 1950s was that the minority was divided, one group maintaining official contacts with former Czechoslovakia and another, larger group refusing to maintain Communist contacts. In the 1990s the two groups were re-united and agreed on the establishment of an Advisory Council for the entire Czech minority at the Federal Chancellery. This step paved the way for a certain image correction within the group, which especially encouraged the participation of younger Czechs and led to a number of innovations.

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[213] Austrian Government, Second Report Submitted by Austria pursuant to Art. 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities, ACFC/SR/II(2006)008 of 1 December 2006, 21.

As a result of the political changes in Czechoslovakia in November 1989, closer contacts were established again between the Czechs in Vienna and the Czech Republic.[214]

THE SLOVAK MINORITY

The Slovaks in Austria are a small minority which has been resident in this country for quite a long time. From the 5th to the 9th centuries, the eastern regions of Lower Austria were part of the first state entities of early Slovaks. Linguistic and ethnographic analyses indicate that there has been a continuous Slovak settlement in these regions to this day. At present, around 25% of the Slovak minority live in Lower Austria. The largest part, around two thirds, live in Vienna. Slovaks live in all districts of the city without there being any agglomerations or compact Slovak islands. The remaining members of the minority are dispersed throughout Austria, most of them living in Upper Austria and Styria.

Around 1900, the number of Slovaks in Austria reached its highest point (approx. 70,000), with most of them living in Vienna and in the Marchfeld region. It rapidly declined thereafter to 20,000 around 1914 on what is today Austrian territory. After 1918, some Slovaks settled in newly established Czechoslovakia; according to a census conducted in 1923, there were only 4,802 Slovaks living in Austria. Since then, their number has been constantly declining. At the 1991 national census, 2,120 persons including 1,015 Austrian nationals, said they spoke Slovak in everyday life. Of all those registered, 1,645 members of the Slovak minority were resident in Vienna and Lower Austria, including 835 Austrian nationals. Their actual number, is however, considered to be far higher, amounting - according to estimates by Slovak organisations - to between 5,000 and 10,000.

With the amendment of an ordinance published in the Fed. Law Gazette No. 38/1977 (Fed. Law Gazette 148/1992), the Slovaks were recognised on 21 July 1992 as a national minority within the meaning of the Minorities Act (Volksgruppengesetz). In 1993, an Advisory Council (Volksgruppenbeirat) was established for the Slovak minority.[215]

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[214] Austrian Government, Second Report Submitted by Austria pursuant to Art. 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities, ACFC/SR/II(2006)008 of 1 December 2006, 21-22.

[215] Austrian Government, Second Report Submitted by Austria pursuant to Art. 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities, ACFC/SR/II(2006)008 of 1 December 2006, 22-23.