Regulatory Rights Toolkit for Attuning Everyday Extremism

Foreword

This policy toolkit, designed in the context of the Horizon Europe OppAttune project, seeks to examine how human rights and protections have been combined across socio-political contexts to promote constructive opposition and freedom of expression.

The toolkit examines *"on an ideological plane, how political extremists often show disdain for the rights and liberties of others but resent the limitations of their own activities,"* such as how guaranteeing the right of free speech has met the need to regulate various forms of hate speech, fake news, and potentially violent threats.

This toolkit consists of two work packages prepared in the context of the OppAttune project. Part I was prepared to complete deliverable 2.1 and part II was prepared for the deliverable 2.2. Though they may be read separately, we have joined them together in this document because they are designed to mutually inform one another. Through the two parts, the toolkit explores how human rights may combine with regulatory protections to ensure an open exchange of ideas and prevent the collapse of dialogue. In so doing, the toolkit *takes into account national specificities – embedded in their historical, social and cultural contexts – and transnational influences, within Europe and globally,* and tracks sociological drivers of extreme narratives. Analysis is framed within an understanding of constructive opposition in democracy through *regulatory-rights pathways:* these pathways consider how human rights have combined with various modes of public protection to promote democracy in specific political contexts.

The toolkit is based on sixteen regulatory-rights cases where the relationship between rights claims and regulatory power is clearly demonstrated. Thanks to funding through Horizon Europe for the OppAttune project, the development of this policy toolkit was led by a team at the Center for Critical Democracy Studies at the American University of Paris in partnership with a multi-disciplinary team of academics and practitioners to examine the evolution of political extremism1 and its influence on social and political dialogue (English and Mahendran, 2021) with the aim to track, attune and limit the spread of oppositional extreme narratives. Our team is composed of social scientists, historians, philosophers, legal scholars, social psychologists and sociologists.

OppAttune is a Horizon-Europe funded project involving 17 partners across Europe and beyond. This toolkit participates in the project's aim to develop an innovative Attunement Model which tracks, attunes, and limits the spread of extreme political narratives. The various cases from which the toolkit is drawn are designed to help track the evolution of extreme political narratives in three key areas: the on-line and off-line media, citizen decision-making, local neighbourhoods and living democracies. Tracking will establish the psychological, sociological, and anthropological drivers of extremism[1]. To attune the public's capacity for dialogue by modelling how the evolution of extreme political narratives impact social and political dialogue within everyday contexts. To limit the evolution of extreme narratives and their potential for political transformations which disrupt democratic processes, such as elections and referendums. The focus of the project is not on discourse which incites violence or engages in hate speech. Rather, on the spread of extreme narratives through seemingly 'common sense' discussions about polarising issues which create 'everyday extremism'. Everyday extremism is the gradual inclusion of extreme narratives, sentiments, and attitudes into the conversations of political actors and the general public, which then become normalised and acceptable.

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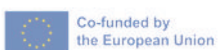
[1] Extremism has no universally accepted definition and remains tainted with ambiguity. Arguably, the term is predominantly used as a social label in discussions on terrorism and other forms of extreme violence – particularly applied to those who have a distorted interpretation of religious ideology to justify the use of violence to achieve specific socio-political aims. It involves beliefs and actions that support or use violence to achieve ideological, religious, or political goals, with the intention to influence the government or intimidate the public. Extremism may manifest in various forms and requires understanding to prevent radicalization and challenge extremist ideas. A number of definitions have been developed at the national, regional and international levels. A recent United Nations High Commissioner for Human Rights (UNHCHR) Report on good practices and lessons learned on how protecting and promoting human rights contribute to preventing and countering violent extremism examined existing State practice on policies and measures governing 'violent extremism' (General Assembly, Human Rights Council report A/HRC/33/29). See also Guiora, Amos N., 'The Complexities Defining Extremism', Tolerating Intolerance: The Price of Protecting Extremism, Terrorism: Documents of International and Local Control (New York, 2014; online edn, Oxford Academic, 23 Jan. 2014).



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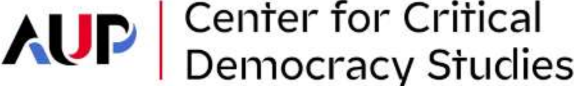
We thank the American University of Paris for its continued support of the Center for Critical Democracy Studies (CCDS-AUP) and for ensuring the possibility of pursuing academic and public research on essential challenges and opportunities with contemporary democracy. This endeavour, aiming to understand and counteract the rise of extreme narratives (Pilkington, 2021) through regulatory-rights pathways, would also not have been possible without the dedicated efforts of a diverse and multidisciplinary team, comprising social scientists, historians, philosophers, legal scholars, social psychologists, and sociologists. Our collaboration has enriched the toolkit with varied perspectives, ensuring a comprehensive approach to the complexities of political extremism. We acknowledge the OppAttune project's overarching vision and funding from Horizon Europe, involving 17 partners across Europe and beyond. This support has enabled us to delve into the challenges and threats posed by extreme narratives, with the aim to track, attune, and limit their spread.

Lastly, we emphasise that the views and opinions expressed in this toolkit are solely those of the author(s) and do not necessarily reflect those of the European Union or Horizon Europe. We are grateful for Grant Agreement No. 101095170, which made this research possible. Thanks to everyone who contributed to the OppAttune project, underscoring the importance of constructive opposition and freedom of expression in safeguarding democracy.

Partners



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Deliverable No. 2.1

Policy Toolkit for Developing Regulatory Rights Pathways

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Executive Summary

Part I of the Regulatory Rights Toolkit for Attuning Everyday Extremism is designed to provide a valuable resource for practitioners, policymakers, thought leaders, and academics.

This toolkit serves as both a method and a practical tool, offering a structured approach to navigate the intricacies of everyday extremism and extremist narratives. It aims to foster greater dialogue and enhance policy success by presenting the idea of regulatory rights pathways. In doing so, it seeks to contribute to examining past and present combinations of public protections and human rights that facilitate constructive oppositions.

The toolkit introduces the Regulatory Rights Prism (RRP), a comprehensive framework that integrates three key dimensions for assessing policy: **context, belonging,** and **outcomes.** Each dimension is schematically presented to have four modes in order facilitate diagnostic analysis. This approach responds to the demand for a comparative understanding of extremist narratives, considering both national specificities embedded in historical, social, and cultural contexts, and transnational influences within Europe and globally. By delving into policy, institutional, and practical suggestions, this toolkit empowers users to navigate complex landscapes and contribute to informed decision-making in the face of evolving challenges related to extremism. It is designed to enable the identification of new pathways, providing valuable insights into the diagnosis of environments characterized by what the OppAttune project understands to be everyday extremism. Part I lays the groundwork for the analysis of 16 cases through the RRP in Part II.

Section A: Elucidating Extremism and Attuning Democracies

Conceptual and methodological framework

The regulatory-rights toolkit seeks to respond to the challenges and threats to democracy[1] and the European project posed by the rise of extreme narratives and lack of capacity for political and social dialogue. In keeping with the wider methodology developed within OppAttune, this toolkit seeks to help practitioners, teachers, researchers and policymakers by providing a framework for achieving three objectives:

Track
the evolution of extreme political narratives within media, local ecologies and living democracies and establish the psychological, sociological and anthropological drivers of extremism.

Attune
capacity for public dialogue by modeling how the evolution of extreme political narratives impact social and political dialogue.

Limit
the rise of extreme political narratives and their potential to become violent political transformations disrupting democratic processes such as democratic elections.

The societal repercussions of extreme narratives[2] are substantial, influencing mainstream political discussions and policies. Evidenced by alarming outcomes in national and European opinion polls and elections, this phenomenon appears to be part of a broader trend. The analysis provided in this toolkit considers both local and global contexts, particularly in relation to the rise of authoritarian, populist, and extremist discourses in select countries, as well as the infiltration of extremist ideology into mainstream media, social platforms, and political discourses. Examining the drivers, involving the media, political spheres, and popular sentiment, helps comprehend the dynamics at play. Proposed evidence-based strategies aim to counteract extremist discourses, curbing their short and long-term impact. The objective is to help formulate policy recommendations to mitigate the spread of political extremism.

In the first section of this toolkit, we provide a four stage approach to analyzing and managing extremist narratives across a broad range of contexts: first, we identify models of Attunement through *regulatory-rights pathways* which we define below; second, we provide a framework for determining **contexts** in regulatory-rights pathways; third, we propose an analysis of modes of *belonging* in regulatory-rights pathways; and finally, we explore how context and modes of belonging can produce specific *outcomes* of regulatory-rights pathways.

[1] Democracies are more fragile and more vulnerable than in the past. The Freedom in the World Report (2020) shows that democracies across the globe are in crisis https://freedomhouse.org/report/freedom-world/2020/leaderless-struggle-democracy. At the same time, various European surveys show declining levels of trust in the political institutions of democracy. W. Merkel, Past, Present and Future of Democracy - Policy Review, 2019: https://op.europa.eu/en/publication-detail/-/publication/4bebf83d-60ba-11e9-b6eb-01aa75ed71a1/language-en/format-PDF/source-94807842

[2] For more on extreme narratives and its consequences in particular in the context of gender see: "Mainstreaming, Gender and Communication in Turkey", Turkey/D5.2 Country Report December 2022 Hasret Dikici Bilgin, Istanbul Bilgi University Horizon 2020 De-Radicalisation in Europe and Beyond: Detect, Resolve, Re-integrate 959198. https://dradproject.com/?publications=mainstreaming-gender-and-communication-in-turkey

Through this approach, the toolkit provides a method for detecting, analyzing and potentially predicting how forms of extremism have been matched with specific regulatory responses and the impact of such responses. It has been developed through an inductive analysis of case studies that examine the relationship between demands for rights and the regulatory responses that make those rights effective or give them social and legal substance.

In keeping with the OppAttune project, this toolkit does not aim to deliver a theoretical overview of all socio-economic or geopolitical shifts that shape the contemporary manifestations of extremism nor suggest a complete set of regulatory responses to these manifestations. The main task is rather to provide a framework for approaching specific, pivotal issues that are part of a general trend toward extreme political narratives and their evolution and provide a framework for managing its rise and social effects.

As a result, the cases presented in the second part of this report, represent geographical diversity with cases focusing on countries across the Mediterranean and the Americas. Two of the sixteen cases are theoretical, that is, hypothetical cases used to exemplify a specific problem set within demands for rights and the need to regulate them. A second section of this toolkit (to be completed in February 2024) will be added which details the 16 historical, contemporary, and theoretical cases that were used to devise the toolkit.

All the cases present a specific instance of rights that were demanded, ignored, or limited and how regulatory innovations were used to respond to them. They thus provide a foundation for understanding how a balance or imbalance was achieved between protections and regulations of group or individual behaviors and rights frames for ensuring the liberty of groups and individuals.

Taken as a whole, these cases are used to develop what we have chosen to call a *regulatory rights prism* in which rights claims and regulatory responses are considered together. The idea of a prism is used to reflect the diagnostic method we propose. We suggest that there are a variety of sides to any specific set of rights claims as well as the variety of contexts, senses of belonging and regulatory outcomes that may emerge from them. This toolkit therefore seeks to provide a *prism* through which rights claims and regulatory responses may be analyzed.

While the ability of "good" regulatory policy to make rights claims effective is influenced by institutional, social, and cultural factors, this policy toolkit focuses on the specific regulatory-rights linkages as a means of analyzing everyday political extremism.

The toolkit is designed to help in assessing possibilities for attunement. It does not provide a complete attunement model. This policy toolkit is also not designed to provide an exhaustive account of the kinds of relationships that can emerge within rights claims and regulatory policymaking. It is rather designed to draw on a careful sampling of cases to build out a diagnostic tool and framework for thinking about the regulation and rights linkages.

CCDS-AUP has provided 6 cases and the overall synthesis of all cases. İstanbul Bilgi Universitesi provided 4, University of Cyprus (UCY) provided 4 cases, and Professors Simon Lee and Eddie Abbott-Halpin provided 2 cases.

Diverse patterns of extremism

This toolkit is designed to offer an approach for analyzing and responding to a broad range of rights claims and their contribution to trends of polarization and extremism. The case-studies therefore treat issues as varied as religious or political extremism, and reflect extreme-right, far-left, or a complex interplay of political alliances and ideological struggles, directed against members of a vulnerable group or of the dominant majority, committed by individuals of different religious, ethnic and gender identities, and organized by online and offline means.

The cases have been chosen to highlight the multifaceted nature of everyday extremism (defined below), which encompass diverse ideologies, societal dynamics, and regulatory challenges.

The specific cases focus on issues that are particularly salient today and include:

LGBTQIA+ rights and corporate responsibility, emphasizing the complexities of equality, acceptance, and backlash in the corporate landscape; justice in the global context through labor unions, and international legal arenas, revealing the need for new paradigms in addressing socio-political issues globally; sustainable tourism and the clash between regulatory and rights- based populism; the evolving landscape of neurotechnologies, international influences, and the ongoing discourse on distinct legal frameworks for the cognitive domain; discrimination in education based on wealth and privilege, revealing complexities in affirmative action policies; gender-based violence, highlighting the challenges in data collection, legislative responses, and media perpetuation of victim-blaming narratives, emphasizing the importance of consistent EU-wide effort; discrimination and hate crimes, through a complex interplay of neglect and shifting government stances; historical roots, political shifts, and ongoing challenges for both secular and Islamist movements; complexities of post-conflict governance and the persistence of political extremism in the mainstream landscape; freedom of expression, emphasizing the potent impact of peer-led censorship through social media, challenges in state-led censorship, and the importance of safeguarding diverse perspectives.

Orientation and perspectives

As argued within our OppAttune framework, democracies and the European project are under threat by extremism and lack of political and social dialogue. Existential insecurities arising out of economic and refugee-related crises have been exacerbated by Covid-19 (Davies, Wu and Franck 2021) to create re-bordering e.g., xenophobic- nationalism and re-shoring e.g., the localization of production. Oppositional worldviews, narratives and dissensus within public debate are all vital to a functioning democracy. The right to express and stake claims in the private and public spheres is essential to popular rule. However destructive polarization of oppositional us/them logic is at the core of the rise of extremist narratives. And extremist narratives have gained ballast through a weaponization of rights claims.

Disruptive actors polarize oppositional logic using disinformation, emotions, hot cognitions, conspiracy theories and mistrust to create new forms of direct action. While this direct action is understood by many as direct democracy, it cultivates unlikely coalitions creating attractive alternative on-line/off-line worlds which spread extreme narratives into the mainstream via deep rooted sociological and historical pathways.

In this context, it is necessary to develop strategies for regulating rights to stabilize tensions around free speech, counter extreme discourse, and prevent the spread of political extremism by trying to match demands for rights with appropriate modes of regulation.

Academic and policy literature has turned increasingly to a focus on how to maintain regulatory protections to guarantee that rights are made constructive and effective (Sawyer and Novak, 2022). Public health (Cottingham et al., 2010), business environments (Nolan, 2016), hate speech (Shoshan, 2026), human rights (Bertram et al.)[3] and a whole range of key areas of social, economic and political rights are presently being examined from the perspective of new regulatory frameworks to both give these rights substance and combat the potential dangers of an excessive emphasis on rights against all forms of regulatory intervention. While rights have provided essential frames for thinking about the expansion of freedoms both within liberal democracies and in more authoritarian or illiberal democratic contexts, it is increasingly clear that without a regulatory response to demands or claims to rights, these freedoms can in fact undermine the possibility for attunement among extremes. Attunement should enable ordinary citizens to navigate oppositional us/them political environments without polarizing into hostile extreme positions. Demands for free speech which spill over into hate speech; calls for the right to refuse access into commercial establishments; calls for the right to deny participation based on an individual's ideas all provide examples of how rights talk may in fact be mobilized to prevent processes of attunement through exclusion rather than increase it.

A new awareness of the importance of matching regulatory power with rights provides new opportunities for attunement. Recent work shows that "good" regulation is able to measure how regulation can be more effective wherever "it is good for society" instead of "geared toward eliminating 'bad' regulation for firms." (OECD, https://www.oecd.org/ gov/regulatory-policy/48654415.pdf)

[3] In the publication of The Rapidly Changing World of Human Rights Regulation: A Resource for Investors by the Harvard Law School Forum on Corporate Governance the authors highlight for example: "the human rights regulatory landscape is changing rapidly, evolving from soft to hard law and with momentum towards mandatory due diligence." Clare Bartram, Marie-Anaïs Meudic-Role, Abigail Kyla Antonio, Thiago Toste, "The Rapidly Changing World of Human Rights Regulation: A Resource for Investors," https://www.issgovernance.com/file/publications/iss-esg-the-rapidly-changing-world-of-human-rights-regulation.pdf

Looking for ways to create protections for specific types of rights claims that effectively improve social conditions or attempting to reduce the weaponization of rights toward everyday extremism, may be aided by determining the context in which the rights claims are made. Contextualizing the type of rights claims being made can improve the ability to develop regulatory policies that help concretize rights.

Within this toolkit, it is argued that contextualized rights claims are bound to modes of belonging (see diagnostic tool 2 below) in a given community. That is, rights are not demands made in the abstract, but are rather rooted in actual practices of social obligation and reciprocity. The toolkit is thus designed to aid in determining the specific types of belonging that motivate calls for rights for or against a given legal norm, social custom, or policy.

Regulations of rights claims have consequences or what we call here, outcomes. After determining the context of a given rights claim and the modes of belonging that have shaped it, we provide a framework for understanding how regulation has responded. In each case, we provide benchmarking tools.

The advantage of this prism is that once context, belonging and outcome have been identified, the prism offers a way of moving forwards (from context to belonging to outcome) or backwards (from outcome to belonging to context) within a specific policy to determine how a given policy emerged as well as what impact it had or may have afterwards.

Together, these steps provide a prism for reading a given policy area that helps to understand how everyday extremism may be better attuned to specific social goals through protections and regulations.

Key terms and definitions

1 Everyday Extremism

Everyday extremism refers to the manifestation of extremist behaviors, attitudes, or ideologies in the routine activities of individuals or within societal structures on a day-to-day basis. It involves the integration of extremist elements into ordinary aspects of life, potentially impacting social cohesion and interactions.

2 Everyday Extremism Scale

The Everyday Extremism Scale is a relational scale ranging from 1 to 10. It serves as a tool to assess the potential impact of a specific event or policy on polarization within society. A higher score indicates a greater potential for polarization, while a lower score suggests a tendency towards integration into everyday activities without exacerbating polarization.

3 Attunement

Attunement refers to the process of bringing elements into harmony or alignment. Attunement likely involves fostering understanding, cooperation, and cohesion within societal structures, aiming to mitigate the effects of extremism and promote shared values.

4 Rights-Contexts

Rights-contexts refer to the specific circumstances, situations, or environments in which legal, social, or ethical principles of freedom or entitlement, commonly known as rights, are claimed. Understanding rights-contexts involves examining how rights are exercised and protected in various scenarios.

5 Regulatory Response

Regulatory response pertains to the measures, policies, or actions implemented by regulatory bodies or authorities in response to specific sets of rights claims or issues. Regulatory response in the context of this toolkit is specifically focused on addressing extremism and its potential societal impacts through legal and policy frameworks.

6 Contextual Capacity

Contextual capacity refers to the amount of potential a given context has to be transformed by policy. It involves understanding the contextual factors that impact the effectiveness of regulatory measures and their ability to attune everyday extremism.

7 Rights-claim Public

A Rights-claim public (RCP) is a group that is formed around a specific set of rights claims. These groups may have long-standing claims or may have developed around a specific policy issue.

Section B: Tools for policy

Diagnostic tool 1: *Contexts* of Regulatory-Rights Pathways

Identifying contexts of rights claims and regulatory responses is designed to move away from abstract claims of demands for rights and instead to situate them in the concrete situations within which those claims and responses are being made. Contexts may be ascertained by posing a series of questions of a given set of rights claims.

Box 1.2 Checklist of Questions to Determine the Regulatory-rights *Contexts*

Rights:
What rights are being invoked to defend a person or action?

Rights:
What are the trajectories of rights for that government, party, company, region?

Levels of Governance:
What level of governance is assumed to ensure, or is being asked to ensure these rights (national, EU, human rights, UN, etc.)?

Levels of Governance:
What bodies of governance would actually, or realistically, be able to ensure these rights?

Social Fabric:
How fragmented is the social fabric within the given context? Assess the degree of social division or unity to understand the potential impact on regulatory-rights pathways.

Social Fabric:
How are power dynamics distributed among different groups within the society? Investigate the power structures to identify potential challenges or opportunities for regulatory-rights pathways.

Social Fabric:
How is the opposition perceived by the general public? Examine public sentiments to understand the broader societal attitudes toward the modes of opposition.

Social Fabric:
To what extent do cultural factors contribute to the modes of opposition? Consider cultural influences that may impact regulatory responses and rights protection.

Social Fabric:
Are there significant economic disparities among opposing groups? Explore economic factors as they relate to the context, as these can influence attitudes and behaviors.

Historical Trajectories:
What historical trajectories have shaped the existing modes of opposition?

Communication:
What communication channels are prevalent among opposing groups? Analyze the modes of communication to gauge the openness or hostility that might affect regulatory responses.

Legal Framework:
How well-established is the legal framework in addressing opposition and promoting rights? Evaluate the existing legal structures to determine their effectiveness in ensuring attunement.

International Relations:
How do international relations affect the regulatory-rights pathways? Investigate external factors that may shape or constrain the regulatory environment within the given context.

Technology:
What role does technology play in the modes of opposition? Examine technological influences on communication organization and information dissemination.

Determining Regulatory-rights contexts

This diagnostic tool provides a vocabulary for identifying contexts where rights claims may lead to extremism. We seek to demarcate a spectrum of contexts from the most politically destructive to the most inclusive.

Exclusionary contexts:	Non-conflictual contexts:
Are modes of opposition grounded on exclusion of one group or another within the relevant polity. Example: A government implementing discriminatory policies that intentionally marginalize a specific ethnic or religious group, limiting their participation in societal affairs.	Are modes of opposition in which a given minority has remained, sometimes over centuries, and never been fully attuned but does not seek to integrate into the polity by violent means. Example: A minority community peacefully coexisting within a society but maintaining distinct cultural practices and not fully integrating into the mainstream.
Uneasy contexts:	**Emancipatory contexts:**
Are modes of attunement in which different groups both have legitimate and potential dominant claims and exist side by side. Uneasy contexts may unravel or continue peacefully. Example: Communities with historical tensions living together, where unresolved disputes and competing claims may lead to either peaceful coexistence or escalating tensions.	Are modes of opposition which have led to greater integration, policy change and social justice. Example: Successful social movements advocating for civil rights, gender equality, or environmental justice that bring about policy changes and societal integration, fostering a more equitable and just society.

Benchmarking regulatory-rights contexts:

Benchmarking[4] is a strategic management tool used to evaluate and improve the performance of processes, products, or services by comparing them against industry best practices or standards. In the context of our regulatory-rights model, benchmarking involves assessing the effectiveness of a policy by evaluating its impact on the social, economic, and political environment it intends to regulate. By providing benchmarking criteria was seek to contribute to OppAttune's overall benchmarking process for assessing and attuning extremism. In this toolkit, benchmarking is crucial for understanding contextual capacity, which refers to a specific place and time's ability to turn opposition into constructive forces, promoting successful policy change, social justice, and integration. We suggest a means of what kinds of indicators and sources may be used to determine the degree of everyday extremism in a given context and the ways that it may impact contextual capacity.

The contextual capacity to determine the potential for regulatory-rights pathways to attune

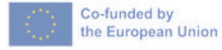
"Contextual capacity" refers to a given place and time's ability to make opposition more constructive and less destructive, that is, to achieve attunement. The higher the contextual capacity, the better the chances that opposition will lead to successful policy change, social justice, and integration.

Table 1.1 Benchmarking the degree of everyday extremism in a given context

Dimensions	Suggested Indicators[5]	Sources	Scale
Exclusionary	Change in trajectory following a strong and violent response, i.e. street protests, a targeted violent crime;	Becomes a hashtag; goes viral among opposition (+60k retweets in 3 days); Polarization polls;	High levels of opposition and polarization, potentially leading to violence.
Non-conflictual	Lack of strong reaction by opposing parties, and/or civil society.	No major news article; Lack of engagement on social media by either side; Does not enter a political party's platform.	Minimal attention and response, indicating low potential for conflict.
Uneasy	Pushback on both or one side; occasionally occurs in media but without being followed through in any significant manner.	Varies based on the nature and intensity of pushback; regularity of claims and complaints.	Moderate levels of tension, requiring careful handling to avoid escalation.
Emancipatory	Synchronized trajectories and support from both/all sides; open space for improvement and policy implementation.	Positive media coverage; Joint statements or initiatives; Public demonstrations of support.	Collaborative efforts and positive engagement for societal progress.

[4] The United Nations Development Programme (UNDP), as well as many other organizations, emphasize the importance and usefulness of benchmarking practices to address myriad issues both at the national and global level. To read more on this: https://www.undp.org/kyrgyzstan/news/business -and-human-rights-champions-or-what-benchmarking-can-tell-you For example, one of the most authoritative and well-known benchmarks is the Corporate Human Rights Benchmark: https://www.worldbenchmarkingalliance.org/corporate-human-rights-benchmark/

[5] This toolkit has been developed within the first 9 months of the OppAttune project. As a result, these remain suggested indicators which may evolve over the course of the project.



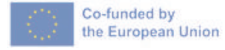
Diagnostic tool 2: Modes of *Belonging* in Regulatory-Rights Pathways

The following list of questions help determine modes of belonging within a given regulatory- rights context. These questions aim to delve deeper into the regulatory-rights belonging of the rights claim public in public spaces, addressing issues of representation, integration, safety, and the overall dynamics shaping their experiences.

The toolkit identifies four major types of belonging on a spectrum from the most destructive and potentially disintegrative to the most integrative:

Resentful belonging:	**Persistent belonging:**
Perdures among groups that coexist in opposition and may decompose at any moment. Groups resent the presence of another even as their modes of attunement may be aligned at a given moment;	Generally applies to minority groups that continue in a position of marginality over long periods and for whom attunement is always a relative achievement;
Precarious[6] belonging:	**Heightened belonging:**
Allows groups that have found a mode of attunement to coexist but with a suspicion and fear among each group or individual that their position may be supplanted or challenged;	Is achieved when oppositional groups have overcome their opposition to achieve greater inclusivity and social justice. Opposition remains, but the violent clash of interests has been overcome with policy and institutional outcomes of expanded belonging.

[6] The notion of "precarious" belonging within the RRP has been drawn from the work of Simon Lee.



Box 1.3 Checklist of Questions to Determine the Regulatory-rights *Belonging*

Representation:
How represented is the given Rights-claim public (RCP) making the rights claim or protected by a given regulation RCP in public space and discourse?

Conflict:
How conflictual is the RCP's presence within the general public, writ large?

Integration:
How integrated and safe does the RCP feel?

Participation:
To what extent is the RCP involved in decision-making processes that affect public space regulations?

Participation:
What initiatives exist to facilitate the active engagement of the RCP community in shaping public space policies?

Equity:
How equitable is the distribution of resources and amenities in public spaces for the given RCP?

Legal Safeguards:
What legal safeguards are in place to protect the rights of the RCP in public spaces?

Media:
How is the RCP portrayed in media concerning public space issues, and does this representation influence public opinion?

Discrimination:
To what extent does the RCP perceive discrimination in public spaces, and how does this impact their sense of belonging?

Public Space:
How does the discourse around the RCP in public spaces contribute to or challenge existing power dynamics?

Table 1.2 Benchmarking the degree of everyday extremism through modes of belonging

Dimensions	Suggested Indicators	Sources	Scale
Resentful	Expression of discontent or dissatisfaction within the community; instances of public protests, social media sentiments reflecting resentment.	Instances of public protests; social media sentiments reflecting resentment; ghettoization; discrimination in the public sphere.	Dormant resentment dependent on the frequency of conflict and/ or public expression.
Persistent	Prolonged existence of discontent or marginalization; insignificant change or improvement.	Historical records, longitudinal studies on community dynamics; scarce media coverage.	Relatively consistent with opportunities for slow progress and regression.
Precarious	Fragile or unstable conditions within the community; inconsistent support and inability for long term and stable engagement.	Reports on socioeconomic instability, community surveys on feelings of insecurity.	Mild to severe distrust and fear for their position in a society; immigrants with irregular situation or short-term unstable documents; un/under recognized minorities; foreign workers on short contracts.
Heightened	Increased sense of unity or empowerment; positive community engagement, collaborations, and expressions of shared identity.	Recognized and protected as a valued member of society; positive action seeking to benefit particular groups;	Opposition that has led to significant improvements in belonging, whether through more gradual and progressive attunement or more radical and transformative policy change.

Diagnostic Tool 3: Interactive Questions for *Outcomes* in Regulatory-Rights Pathways

Here we provide a series of questions that help identify possible, undesired, and desired outcomes in regulatory-rights pathways. Clearly all regulatory responses will not lead to possible attunement, that is, decrease the evolution of extreme political narratives. Depending on the context and the mode of belonging, a given regulatory response may promote greater attunement or it may in fact increase the potential for extremism. By determining the outcome, based on the context and belonging of a given rights claim, it is possible to evaluate the possibilities for greater or reduced attunement.

These dimensions of regulatory rights pathways may lead to four outcomes:

Rejection:	**Modus vivendi:**
When one group refuses the continued presence of another within a regulatory-rights pathway;	Allows for groups to continue as they have, even amidst a relative failure of full attunement;
Dialogue:	**Transformative:**
Allows for a relative achievement of attunement. Though it remains unsettled, it emerges when institutional, legal and policy frameworks have been found to support short and medium-term attunement;	Comes when the essential drivers of opposition have been grasped as sources of injustice and are identified by extensive legal, policy and institutional frameworks as detrimental to the community.

Rejection scenario

Question: In a regulatory-rights pathway, if one group adamantly opposes the continued presence of another, what potential consequences might arise for the overall dynamics of dialogue and cooperation?

Options:

1.1. Escalation of tensions leading to conflict
1.2. Establishment of alternative pathways for coexistence
1.3. Collaborative efforts to address underlying issues

Modus vivendi inquiry

Question: When groups choose a modus vivendi within a regulatory-rights framework despite a partial attunement failure, what factors contribute to their ability to sustain this coexistence?

Options:

2.1. Shared cultural practices fostering understanding
2.2. Regular dialogues and conflict resolution mechanisms
2.3. Dependence on external interventions for stability

Dialogue dynamics

Question: How can institutional, legal, and policy frameworks play a crucial role in fostering dialogue within a regulatory-rights pathway, particularly in the short and medium term?

Options:

3.1. Establishing clear communication channels
3.2. Implementing inclusive decision-making processes
3.3. Encouraging public engagement through media

Transformative drivers identification	Question:	In the context of regulatory-rights pathways, what steps can be taken to identify essential drivers of opposition as sources of injustice, leading to transformative outcomes?
	Options:	4.1. Conducting comprehensive socio-economic analyses 4.2. Engaging communities in participatory research 4.3. Collaborating with experts across diverse disciplines 4.4. Implementing targeted policy interventions 4.5. Establishing community-driven regulatory bodies 4.6. Facilitating continuous community feedback mechanisms

These interactive questions aim to engage stakeholders in thoughtful reflections on the potential outcomes within regulatory-rights pathways, fostering a deeper understanding of the complexities involved in attunement processes.

Diagnostic Tool 4: Forming regulatory-rights prisms

In this final step, the contexts, modes of belonging and outcomes are brought together to form a prism through which rights claims and regulatory responses may be understood. The goal is to create a comprehensive framework for considering the interplay between regulations, rights, and societal dynamics. The prism may be used as a prognostic tool: when confronted with a given rights claim or RCP, after having determined the context and the mode of belonging that defines the rights claims, it is possible to consider the variety of potential outcomes. The prism may also be used as a diagnostic tool after a regulatory-rights response has been deployed. In such a case, it is possible to examine a given regulatory-rights outcome and use the prism to understand how a desired or undesired result was achieved. To be clear, contexts, modes of belonging and outcomes may align in any possible configuration.

REGULATORY RIGHTS PRISM (RRP)

Context

Exclusionary:
modes of opposition grounded on exclusion of one group or another within the relevant polity

Non-conflictual:
modes of opposition in which a given minority has remained, sometimes over centuries, and never been fully attuned but does not seek to integrate into the polity by violent means

Uneasy:
contexts are modes of attunement in which different groups both have legitimate and potential dominant claims and exist side by side. Uneasy contexts may unravel or continue peacefully

Emancipatory:
modes of opposition which have led to greater integration, policy change and social justice

Belonging

Resentful:
perdures among groups that coexist in opposition and may decompose at any moment. Groups resent the presence of another even as their modes of attunement may be aligned at a given moment

Persistent:
generally applies to minority groups that continue in a position of marginality over long periods and for whom attunement is always a relative achievement

Precarious:
allows groups that have found a mode of attunement to coexist but with a suspicion and fear among each group or individual that their position may be supplanted or be challenged

Heightened:
achieved when oppositional groups have overcome their opposition to achieve greater inclusivity and social justice. Opposition remains, but the violent clash of interests has been overcome with policy and institutional outcomes of expanded belonging.

Outcome

Rejection:
when one group refuses the continued presence of another within a regulatory rights pathway

Modus vivendi:
allows for groups to continue as they have, even amidst a relative failure of full attunement

Dialogue:
allows for a relative achievement of attunement. Though it remains unsettled, it emerges when institutional, legal and policy frameworks have been found to support short and medium-term attunement

Transformative:
comes when the essential drivers of opposition have been grasped as sources of injustice and are identified by extensive legal, policy and institutional frameworks as detrimental to the community

Conclusion

In an era marked by the burgeoning rise of rights claims, this Regulatory Rights Toolkit for Attuning Everyday Extremism serves as a guidepost in addressing the challenge of navigating the complex landscape of extremism. As individuals and communities increasingly assert their rights, the need for accessible and comprehensive resources becomes imperative. This toolkit acknowledges that the lack of a step-by-step methodology may act as a barrier hindering individuals from pursuing their rights claims effectively.

Developing diagnostic tools to analyze and address rights violations is an intricate challenge. However, we have proposed to remedy this challenge by applying the regulatory rights framework prism. The goal was to create a framework for thinking about cases through both analytical tools and pathways for helping to abstract details from cases to compare / categorize. This unique perspective allows for a nuanced examination of rights claims, providing a systematic approach to understanding and addressing violations. OppAttune, through this toolkit, aims to empower individuals and advocates by leveraging the regulatory rights framework prism, thereby facilitating a more effective pursuit of justice, both on the EU and global level.

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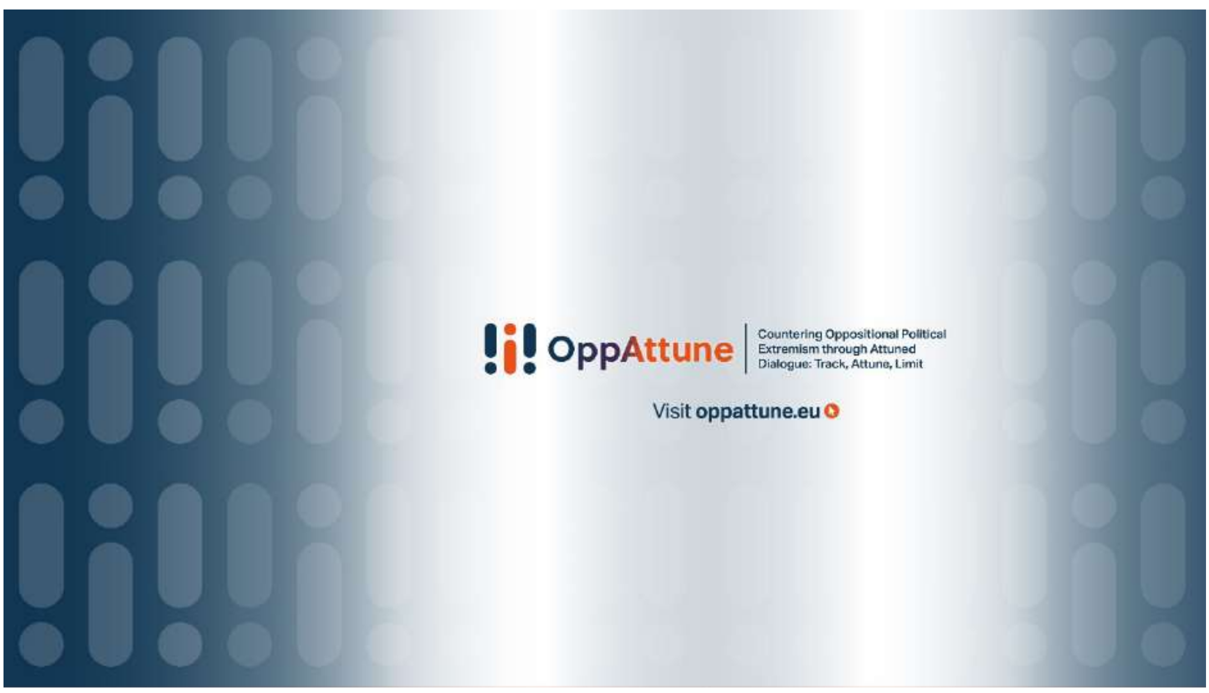

Deliverable No. 2.2

Regulatory-Rights Prisms

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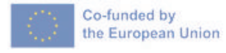
Executive Summary

This second part of the toolkit (deliverable 2.2 for the second work package of the Horizon Europe OppAttune project) offers a method for practitioners, policy-makers, thought leaders and academics to assess environments of everyday extremisms through a regulatory rights prism (RRP), based on in-depth case analysis.

The approach presented in this toolkit is drawn from sixteen historical, theoretical and contemporary case studies, chosen to represent a variety of approaches and problems treated by regulatory rights pathways. It may also serve researchers seeking a perspective on key issues of everyday extremism and provide case studies for teaching the historical challenges of managing extremist narratives. With it we aim to illuminate a broad range of how rights claims can contribute to polarisation and how regulatory mechanisms may help alleviate such polarisation.[1] All the case-studies focus on religious, societal, or political extremism and include a variety of cases to reflect extreme-right, far-left or environmental extremist ideologies with a particular attention to how such extremism is directed against members of a vulnerable group or of the dominant majority, committed by a variety of actors representing different backgrounds and belief systems, including different religious, ethnic and gender identities, and organised by online and offline means.

[1] Julia Ebner, Christopher Kavanagh & Harvey Whitehouse (2023) Measuring socio-psychological drivers of extreme violence in online terrorist manifestos: an alternative linguistic risk assessment model, *Journal of Policing, Intelligence and Counter Terrorism*, DOI: 10.1080/18335330.2023.2246982



Section A: Regulatory Rights Prism Synthesis

Part II of the regulatory-rights pathways toolkit, produced in the context of the Horizon Europe OppAttune project, presents an application of the Regulatory-Rights Prism (hereon RRP) presented in Part I. The prism is applied to case studies to enable further understanding of the actual application of regulatory responses to rights claims. Its aim is to aid policymakers by delineating an approach that identifies types of contexts and modes of belonging and thus presents a new perspective to developing regulatory responses for the successful advancement of a given policy and its desired outcome.

These cases were developed by four teams of researchers located across Europe and Western Asia. Cases 1 to 4 were provided by Professor Hasret Dikici Bilgin from Istanbul Bilgi University, cases 5 to 8 by Professor Irini Kadianaki, and her colleagues Elisavet Panagiotou and Eleni Anastatsiou from The University of Cyprus, Professor Stephen W. Sawyer and Zona Zarić from The Center for Critical Democracy Studies at The American University of Paris provided cases 9 to 14, and cases 15 and 16 were provided by Professor Simon Lee from Aston University and Professor Edward Abbott-Halpin from The University of the Highlands and Islands. The cases reflect the team's expertise, specialised in the research areas represented by the cases.

Introduction

Building upon the prism presented in Part I, Part II offers an examination of contextualised regulatory responses to the challenges posed by rights claims in environments of political extremism. The prism provides diagnostic support for understanding concrete cases in which rights have been mobilised for or against extreme discourse and behaviour. This part presents the most comprehensive part of the framework, as it contains detailed accounts of the cases. The third and final part - the interactive website (Deliverable 2.3) will be the most user-friendly deliverable, enabling seamless navigation of all 16 cases and the prism.

Positioned within the framework of regulatory-rights pathways, this toolkit weaves academic and policy expertise in concrete application. While the diagnostic tool is designed for practitioners and policymakers, the cases in this section may also be used advantageously in the classroom for discussions of public policy and regulation and as starting points for further academic research.

Through a pathways analysis, the toolkit seeks to pay attention to: 1) national specificities; 2) historical factors that shape rights claims; 3) socio-cultural contexts that may influence specific RCPs (Rights Claim Publics); and 4) transnational influences. Each case explores historical and sociological drivers of extreme narratives in specific contexts and explores how they have been mobilised through rights discourses. It then proceeds to reveal regulatory responses and outcomes, exploring whether a given regulatory response has contributed to appeasing extremism or not, according to the four outcomes presented in the RRP.

In keeping with OppAttune's ambition to **track**, **attune**, and **limit** discourses and practices of everyday extremism, the prism provides essential insights into how oppositions may have been attuned or not, through studies which map historical context and socio-legal factors in the rise of extreme narratives. The cases span a spectrum of everyday extremism in order to contribute to OppAttune's ambition to build an Attunement Model, which will be developed and designed to empower ordinary citizens to navigate politically charged environments without succumbing to hostile extremities.

As such, we seek to complement the following aspects of effectiveness and reach as outlined in the OppAttune project:

Practical Applications

The case studies are designed to demonstrate application in real-world settings, and provide guidelines, strategies, and action plans for policymakers, practitioners, and community leaders to identify, assess, and respond to everyday extremism.

Tool Development

The tools developed in the first part of this toolkit have been applied to track and measure how policies impact extreme narratives, whether on digital platforms, social media, or through methodologies for assessing public sentiment and dialogue.

Capacity Building

The cases also offer resources for educational and training programs aimed at enhancing the public's and professionals' ability to recognize, understand, and counteract cases in which extremist narratives are at play. This might include workshops, online courses, or educational materials grounded in our research findings.

Community Engagement

The toolkit proposes mechanisms for engaging with communities in a dialogical process that recognizes key human rights and regulatory responses. In this way, it seeks to asses, in order to mitigate, extremism, highlighting the importance of policy and the role of regulatory leaders and decision-makers in fostering an environment that counters divisiveness.

By focusing on these areas, what follows combines expertise across social sciences and humanities to provide a resource for analysing the complexities of political extremism while also offering practical regulatory diagnostic tools and strategies for countering its impact. This approach is designed to ensure that the toolkit remains relevant, actionable, and impactful for a wide range of stakeholders involved in the fight against extremism.

Objectives

A principal objective of Part II is to help understand how collaboration and partnerships between different stakeholders, including government agencies, NGOs, academic institutions, and the private sector, come together to address the challenges of political extremism. This objective is achieved through concrete cases that demonstrate how different agencies and stakeholders have contributed to formulate rights claims and have responded with and to regulatory responses. The 16 cases therefore demonstrate the range of players involved in forging regulatory-rights pathways within democracy in three ways:

Responding

to the call for a comparative account of extremist narratives through "national specificities – embedded in their historical, social and cultural contexts – and transnational influences, within Europe and globally".

Identifying

models "regulatory-rights pathways": past and present combinations of public protections and human rights that allow for constructive opposition.

Designing

policy, institutional, and practical suggestions through the creation of a RRP that combines 1) context; 2) belonging; and 3) outcomes, and four dimensions in each mode.

Mapping Regulatory-Rights Prisms

The range of geographic and thematic cases presented below is designed to build on the process of policy mapping. The cases thus reveal policy typologies and evaluate the impact of policies and policy instruments. It seeks to explore the content of specific proposed or enacted regulatory policies in contexts of rights claims that may contribute to extremism (Bowen et al., 2022). Through analysis of data, policy content, and policy communication within sixteen case studies, we propose typologies that elucidate the variety of pathways through the RRP from **context** to **belonging** to **outcome**.

Through the cases, policy makers and researchers may more effectively navigate complex landscapes of policy formulation in contexts of everyday extremism. The cases help understand how choices were made, identify a spectrum of viable options, and uncover potential discrepancies and oversights that may have generated more or less productive or desired regulatory responses. Through this ex-post analysis, such mapping may therefore also aid in applying the RRP to new policy measures. The strategic approach to regulatory responses through the RRP can help ensure not only more effective resource allocation, but also that policies are both responsive and resilient to the dynamic socio-economic environments they aim to influence.

Designing a Regulatory-Rights Policy Instrument

Delving deeper into the mechanics of policymaking, the application of the RRP to specific cases illuminates the strategic utilisation of diverse policy instruments designed to target specific entities, including firms of varying scales, different industrial and commercial sectors, distinct segments of value chains, and geographical regions. The exploration of these instruments reveals the multifaceted nature of policy development, highlighting the importance of customising policy interventions to align with the unique challenges and opportunities present within specific contexts.

By examining the array of tools at their disposal, from cautions and incentives related to specific contexts and modes of belonging to capacity-building initiatives that stem from transformative outcomes or those of greater dialogue, policymakers are empowered with the knowledge to design and implement tailored strategies that foster democratic capacity and enhanced resilience across sectors and communities. This understanding of policy instruments is essential for achieving desired outcomes, facilitating a more interconnected, professional, and detailed approach to policy formulation and implementation.

Regulatory-Rights Prism Policy Impact

The RRP may be effectively employed as an ex-ante, mid-term, or ex-post evaluation.[2] It is designed to allow for assessing policy impact over time and thus may be applied to a given case at different stages before, during, and after the policy has been implemented. Our case analyses have considered the impact of a given policy at moment X, but it is possible that the outcome of a given policy may change over time. In this instance, one may reassess and reapply the RRP. This iterative process allows policymakers to adapt their policy aims based on shifting contexts in an effort to ensure that regulatory interventions are adequately prepared.

Consider contexts in relation to the policy decision

Establishing any context is a vast enterprise. All our case analyses are ex-ante (excepting the theoretical cases). We have therefore determined **a specific context based on the policy that was implemented**. That is, if the policy is designed to address a specific rights claim public, then we have sought to present the key elements of context for that specific public.

Simultaneous and overlapping contexts

There are always multiple and overlapping contexts depending on who or what the policy is targeting. It is therefore possible to provide a **complementary contextual analysis** by shifting the perspective from one target group or rights claim public to another.

Address modes of belonging in context

One of the central contributions of the RRP is to consider not only the legitimacy (legal, administrative and political) of a given policy decision but also to introduce the way it impacts modes of belonging. By providing for modes of belonging that are impacted by a given policy, one develops a **subjective policy approach**. This is designed to recognize the perceived needs and pressures of a given rights claim public in any policy decision.

Policy recommendations based on outcome

The insights gained from a contextual and belonging analysis allow both ex-ante, mid-term and ex-post determination of policy recommendations. In each case, it is helpful to begin from the outcome, either real (in ex-post) or projected (in ex-ante or mid-term). By projecting or observing the outcome on a given mode of belonging, a better of assessment of impact may be expected.

Renewing outcome analysis

One must keep in mind that contexts and modes of belonging shift depending on whether they are understood on a local, national, regional or international level. While all recommendations should aim to balance human rights protections with regulations to address problems of everyday extremism, one must keep in mind that the **RRP can be applied at multiple scales** and that the same policy may obviously have a different impact at different scales.

The RRP thus offers a means for analyzing past, present and future policy issues relative to rights and regulations. It is designed to offer policymakers a dynamic and responsive policy-making environment that effectively addresses the challenges of regulating rights claims while protecting human rights and promoting social cohesion from everyday extremism and disruptive extremist narratives.

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[2] There are many different types of evaluation (ex ante evaluations, mid-term evaluations, evaluations during the implementation period, thematic evaluations and ex post evaluations) and each of them play a specific role during the policy cycle. For more on this: https://ec.europa.eu/enrd/evaluation/back-basics/role-monitoring-and-evaluation-policy-cycle_en.html

Sources and Methodology

The method employed seeks to provide an understanding of contextualised regulatory responses (Cofone, 2023). Followed by a discussion of the specific **context** in which the rights-claims are being made, these cases also highlight the notion of **belonging** which define these contexts. Introducing the modes of belonging that characterise rights discourses is an essential feature of this approach to diagnosing regulatory environments. Within the RRP, one focuses on the idea of ***contextualised policy-making*** through a special attention to the subjective experience of policy outcomes. It does so, as described in part one, by elaborating four possible dimensions of belonging for any given RCP.

Our methodology stems from a commitment to moving beyond a merely reactive regulatory response and toward three key ambitions of the OppAttune project: 1) **power-sharing** by focusing on the multiple stakeholders in each specific case; 2) fostering **transnational tracking** by choosing cases that either sit in a transnational context or have international consequences; 3) **attuning** methods to advance multilateralism by exploring multiple actors who are involved and impacted by regulatory policy decisions.

The geographic focus transcends national borders – a standout feature of OppAttune lies in its transnational approach – recognizing the seamless cross-national spread of political extremism, rights claims and regulatory responses. Our cases therefore draw from examples within three distinct zones:

1. Balkan Region (Post-conflict Zone): Slovenia, Serbia, Kosova, Bosnia & Herzegovina, and Hungary.
2. Mediterranean Region (Contentious Contact Zone): Malta, Portugal, Greece, Cyprus, and Turkey.
3. Northern European Region (Protectionist Zone): Sweden, Austria, Germany, France, and the UK.

This strategic geographical diversity is crucial for the project's success, aligning with the evolutions of extreme narratives in today's geopolitical landscape.

The cases have been prepared by researchers who either have expertise in the given geographical area or in the field of the given policy. As a result, the cases were chosen not only to have geographical coverage, but also to cut across private and public boundaries which operate on different scales and to span access multiple scales from local to national to international. They also explore different industrial and commercial sectors, which therefore have distinct customer bases and distinct types of public problems from new regulatory questions posed by long-standing issues such as migration and healthcare as well as older regulatory questions on new issues such as regulating privacy in the realm of neural rights.

Box 2.1. Checklist of four possible considerations (C1, C2, C3, C4) to assess the policy framework for each dimension of the prism.

Context	Belonging	Outcome	Notes (Users may add notes here)
C1. Scrutinise specific, pivotal moments that represent a culmination of a trend/ phenomena	C1. Depict the (im)balance between protections and regulations of group or individual rights	C1. Was greater or partial attunement achieved or was the potential for extremism increased	
C2. Provide meaningful insights into the rise and expansion of general extremists trends	C2. Elucidate the factors and turning points that contribute to the sense of belonging	C2. Did the representation or redistribution change	
C3. Think of geographical and temporal diversity of the trend/ phenomena	C3. Was there an escalation or tension that lead to conflict	C2. Did the representation or redistribution change	
C4. Analyse the socio-economic and/or geopolitical shift	C4. Absence/presence of collaborative efforts and the ability to sustain them	C4. Where alternative pathways for coexistence established	

Section B: Contextualized Case Studies

Lessons from a Policy Sample

Drawing on real-world policy examples, this section offers valuable lessons and insights for policymakers by mapping both successful and unsuccessful policy implementations.

In the exploration of public policy implementation, scholars frequently acknowledge the significance of contextual factors in shaping the outcomes of the implementation process. However, this recognition often does not extend beyond conventional parameters, delving only into the broader context encompassing exogenically driven influences such as macroeconomic shifts (Winter, 2015).

We attempt to broaden this focus to allow for a more comprehensive explanation of how these contextual changes affect the implementation process. The RRP is designed to be a tool in this process. It monitors contextual dynamics through the perspective of belonging to understand how outcomes were achieved, providing a more evaluative understanding of policy implementation.

Prism Synthesis: A Prism Approach to Policy-Making

This section synthesises the RRPs derived from the sixteen cases, offering a comprehensive overview of how regulatory rights pathways manifest in different contexts and policy scenarios.

Policymakers encounter a spectrum of strategic options in this section, presented to amplify the likelihood of successful policy outcomes. By exploring actionable steps and considerations, policymakers gain valuable insights to optimise implementation and effectively address potential challenges that may arise. For policymakers aspiring to achieve transformative outcomes, this section offers a roadmap. It delineates specific policy options strategically aligned with regulatory rights pathways, empowering policymakers to strengthen capacities and cultivate an environment conducive to sustained positive change.

Assessment Tool - The Regulatory Rights Prism

This tool encapsulates the key elements discussed throughout Part II, providing policymakers with a practical guide for systematically evaluating and refining their policies, regulations, and institutional frameworks.

Note: Each subchapter will include detailed insights, case studies, and practical recommendations based on the collaborative efforts of our multi-disciplinary team of scholars and practitioners.

Contextualized Case Studies

Fourteen case studies explain and analyse a concrete situation with significant historical examples. Two cases operate on a more theoretical level chosen for their particular relevance for understanding new claims and the ways in which they are formulated in nascent contexts of justice claiming. The specific cases were chosen for their relevance to contemporary policy challenges, especially in contexts of everyday extremism.

Case 1

The headscarf controversy in Turkey shows how different regulatory-rights frameworks on the same issue across time create different pathways leading to different outcomes. The context was exclusionary until AKP's coming to power in 2002, which generated a resentful mode of belonging among veiled women. JDP's coming to power gave hope that there might finally emerge an emancipatory context, with heightened sense of belonging and a transformative outcome. However, attunement remained partial.

Case 2

Turkey's Alevis constitutes a type of case in which the context remained exclusionary, yet, despite discrimination, there has never been an institutional or collective exclusion towards the Sunnis among the minority. Although never fully attuned, secularism was seen as a relative achievement. The legal cases opened up by the Alevis for official recognition and exemption from the religious courses, illustrating the regulatory-rights pathways in a comprehensive way.

Case 3

The Tunisian case illustrates how attempts of reproachment between rival groups fail due to deliberate state policies that aim to maintain an exclusionary context, by following divide-and-rule policies, that then led to mutually resentful modes of belonging and an outcome of rejection.

Case 4

Secular and Islamic feminisms and their struggle for gender equality in Morocco is selected as a case as it illustrates how a top-down legal reform can improve an exclusionary context to one of uneasy mode of attunement, but nonetheless prevent a heightened sense of belonging and fail short of achieving a transformative outcome.

Case 5

Cyprus has made strides in gender equality since its independence in 1960 yet faces challenges like ethnic nationalism and bias in femicide media coverage, creating an uneasy context for women. The 2019 Metaxas femicide case exposed systemic issues. A 2022 femicide law was passed and responses from society unveiled uncertainties in women's legal avenues, leaving their belonging precarious. Despite progress, persistent challenges arise from the complex interplay of regulatory shifts, societal attitudes, and institutional responses, resulting in a dialogue-driven outcome.

Case 6

This analysis delves into healthcare accessibility for asylum-seekers in Cyprus amid recent arrivals. Despite international mandates, they face obstacles and exclusion from the newly established healthcare system, contributing to an exclusionary context. Cyprus, with the highest asylum-seeker rate in the EU, exacerbates disparities by excluding them from the General Healthcare System (GHS), hindering trauma care. Negative societal attitudes persist, further isolating asylum-seekers, making their belonging persistent. Despite aiming for equitable healthcare, the GHS's exclusionary approach sustains disparities, leaving asylum-seekers with limited access to essential care, resulting in a modus vivendi outcome.

Case 7

This report delves into the impact of the Civil Union Law (CUL) on LGBTQI+ rights in Cyprus, examining its regulatory framework and societal implications. While the adoption of CUL in 2015 marked progress, the law's mixed reception and explicit denial of parenthood rights reveal deep-seated divisions. The analysis exposes an exclusionary context for LGBTQI+ rights in Cyprus, emphasizing ongoing challenges despite non-conflictual activism spurred by the law's introduction.

Case 8

This case explores the challenges faced by Turkish-Cypriots in exercising their EU voting rights amid the longstanding conflict with Greek-Cypriots on the divided island of Cyprus. Despite legislative changes in 2014 aimed at facilitating TCs' participation in European Parliament elections, issues such as anti-EU sentiment and bureaucratic obstacles persist. The report highlights the 2019 EP elections as a positive shift, emphasizing the role of political representation in bridging communities and reveals an exclusionary context within the community, shedding light on the complex dynamics at play.

Case 9

The case examines the controversy surrounding Anheuser-Busch InBev and transgender influencer Dylan Mulvaney, highlighting the challenges of LGBTQIA+ rights within corporate contexts. This incident exemplifies the tension between progressive corporate stances and conservative consumer bases, emphasizing the importance of authentic allyship and the complex interplay between business practices and social values.

Case 10

This case leverages Nancy Fraser's political theory to enhance the understanding of justice in a globalized world, highlighting the integration of rights and regulatory approaches in shaping justice discourse. It underscores the necessity of transcending traditional frameworks to address global economic shifts and the complexities of justice. The emphasis is on evolving justice paradigms and participatory norms to navigate the challenges of a global socio-political landscape.

Case 11

This case examines the collaborative efforts of Amsterdam and Barcelona's mayors towards promoting sustainable tourism and mitigating overcrowding, while also exploring the broader political implications of their approaches. It delves into the exclusionary context of regulatory and rights-based populism, utilizing mayoral discourse analysis and considering Barcelona's socio-political history for a deeper understanding. The findings aim to enrich the discourse on left-wing politics' future, evaluating the interplay between regulatory populism and rights-based populism.

Case 12

This case delves into the emergence of neurorights amidst the expanding realm of neurotechnologies, initially met with optimism but now subject to heightened scrutiny and debate. Chile's pioneering constitutional amendment on neurorights serves as a pivotal case study, shedding light on the methods and rationale behind the legislation and its impact on global neuro-rights discourse. The examination highlights the multifaceted influences shaping neurorights regulations, including international bodies, professional groups, and government entities.

Case 13

This case explores a civil rights investigation by the Education Department into Harvard's legacy admissions following the Supreme Court's restriction of affirmative action. Concerns about wealth-based discrimination have grown, as legacy preferences, favoring applicants with familial ties, face heightened scrutiny. The long-standing practice of legacy admissions has faced increased criticism, especially in the aftermath of the Supreme Court's decision to eliminate race-based affirmative action in college admissions.

Case 14

This case delves into the 2023 Australian referendum on indigenous rights, centering on the establishment of the Aboriginal and Torres Strait Islander Voice. Using the conceptual framework of toleration versus compassion, the analysis explores the societal dynamics and policy outcomes influenced by the referendum held on October 14, 2023. Positioned within the regulatory rights prism, the overview highlights exclusionary forces, potential resentment, and rejection among coexisting groups.

Case 15

The freedom of expression case study balances this fundamental right with protection of minorities, public order and national security. It shows good and bad practice in 'uneasy' and 'exclusionary' contexts. The guiding principle on countering populism is the European Convention on Human Rights Article 17: "Nothing in [the] Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention".

Case 16

The Northern Ireland case-study shows how the peace process involved a move away from 'exclusionary' approaches towards an 'emancipatory' outcome. This is the origin of the OppAttune concepts of the nationalist/Catholic community's 'resentful belonging' and the unionist/Protestant community's 'persistent' but 'precarious belonging'. Grassroots, as well as political, dialogue has averted rejection, with an uneasy modus vivendi which keeps open the possibilities of transformation. In particular, those supporters of terrorism who were subject to broadcasting restrictions in 1988 have been 'brought in from the cold' to the democratic process, following the ceasefires in 1994 and the Good Friday Agreement in 1998.

Case	Context	Belonging	Outcome
Headscarf Controversy in Turkey	Exclusionary (1930s-2002) Uneasy (post-2002)	Resentful / Persistent	Dialogue
Turkey's Alevis	Non-conflictual / Exclusionary	Resentful/ Persistent	Rejection
Secular-Islamist cleavage in Tunisia	Exclusionary	Resentful	Rejection
Secular and Islamic feminisms in Morocco	Exclusionary (until 2004) Uneasy (post-2004)	Resentful / Persistent / Precarious	Dialogue
Breaking the Silence: Combating Femicide and Gender-Based Violence in Cyprus	Uneasy	Precarious	Dialogue
Equitable Healthcare: Unraveling Asylum-Seekers' Access in Cyprus	Exclusionary	Persistent	Modus vivendi
Same-sex partnerships and the case of Civil Union Law in Cyprus	Exclusionary	Persistent	Modus vivendi
EP Elections as a democratic process strengthening the voice of the Turkish-Cypriot Community in Cyprus	Exclusionary	Persistent	Modus vivendi
On Being an Ally	Uneasy	Precarious	Rejection
Abnormal Justice	Uneasy	Heightened	Transformative
Two Visions of Populism	Exclusionary	Resentful / Persistent	Modus vivendi
New Neurorights or Greater Governance of Neurotechnologies?	Emancipatory	Heightened / Precarious	Transformative / Dialogue
Affirmative Action	Non-conflictual	Persistent	Modus vivendi
Toleration vs Compassion	Exclusionary	Resentful	Rejection
Northern Ireland: a case-study of bringing extremists in from the cold	Uneasy	Resentful / Precarious	Dialogue
Freedom of expression in an era of extremism	Uneasy Exclusionary	Precarious / Resentful Persistent	Modus vivendi Rejection / Transformative

CASE #1

Headscarf Controversy in Turkey

Prism case analysis

The headscarf controversy in Turkey shows how different regulatory-rights frameworks on the same issue across time create different pathways leading to different outcomes. The context was exclusionary until AKP's coming to power in 2002, which generated a resentful mode of belonging among the veiled women. JDP's coming to power, especially in its early years, gave hope that there might finally emerge an emancipatory context, with heightened sense of belonging and a transformative outcome. However, attunement remained partial. The precarity which came with continued distrust and fear prevented transformation of the Turkish context for the veiled women. An outcome of dialogue emerged as the hard-line secularists recognized the consequences of exclusion and discrimination which enabled Islamization policies with public support and activist Islamist women increasingly recognize that the controversy goes beyond headscarf. The headscarf controversy case illustrates that regulatory-right pathways need a wider understanding that any religious conflict also has gender and social class dimensions. As long as it is reduced to a lifestyle choice, it is not possible to create a democratic and emancipatory regulatory-rights pathway that might end up in an emancipatory context where discriminated groups have heightened sense of belonging due to comprehensive attunement, inclusivity and social justice. Only then, the outcome can be transformative.

Case	Context	Belonging	Outcome
Headscarf Controversy in Turkey	Exclusionary (1930s-2002) Uneasy (post-2002)	Resentful / Persistent	Dialogue

Case Overview

Secularism has remained a regime characteristic and one of the irrevocable provisions in the Turkish constitutional framework since 1937. The understanding of Turkish secularism has been closer to the French model than an English conceptualization until the 2000s in that it entailed a separation of the spheres between the state and religious affairs but also empowered the state with regulatory powers over the religious domain. This might be particularly explained by the influence of the French Revolution and its values on the founders of the Republic; however, it was shaped by the historical conflict between the modernists and traditionalists in the late Ottoman period. It specifically dates back to the 19th century and early 20th century, when the modernist intellectuals, bureaucrats and military officers evolved into a republican alliance confronted with the monarchists allied with the Islamist and conservative circles. Hence, the conflict was not only between different world views but also one of political competition between the monarchists and republicans in the bureaucracy and the military establishment. The inception of the Republic in 1923 meant that the Republican modernists prevailed over the Islamists and other monarchist groups; however, it did not mean the end of the conflict. Growing tensions between the two sides led to compromise and heightened conflict in alternating turns. One thing remained constant: the fight between the seculars and Islamists has continued to be over the appearance of women in the public sphere.

After the September 12, 1980 coup d'etat, as the military-bureaucratic tutelary establishment started to identify the rise of political Islam as a threat to national security, tensions intensified, resulting in an official ban on wearing headscarves in public institutions, including universities. The headscarf ban, which existed since the early years of the Republic, was strictly put into effect. Secular and nationalist circles argued that the headscarf was both regressive regarding women's emancipation and alien to Turkish culture. Islamists, on the other hand, claimed that it was a religious responsibility which makes the core of Turkish culture and the ban means preventing women from public education. The Justice and Development Party's (JDP) coming to power in 2002 and its consecutive electoral victories to this day transformed the headscarf ban.

This report focuses on the headscarf controversy in Turkey across time from a regulatory-rights pathways framework. It begins with why it is chosen as a case for this work package; and how the case will be analysed. Then, it focuses on the context, the mode of belonging, and the outcome of the regulatory rights pathways for veiled women. It finds that although the headscarf ban was lifted in time, and veiled women have been appointed to public positions, the outcome failed short of being transformative and remained limited to one of dialogue with the increasing mutual understanding about the consequences of restricting freedoms.

Method and Case Justification

This work package seeks to analyse how human rights and protections combined across socio-political contexts might result in different pathways. In certain situations, where integrative institutional, legal, and policy frameworks are put into effect, the outcome might be transformative and promote freedom of expression and democratic consolidation. In the opposite situations, where regulations expand the socio-political space only for selected groups, mutual resentment, distrust and fear prevail, limiting the outcome to continued rejection. In most situations, the pathways lead to outcomes in between rejection and transformative. There might be partial attunement in these situations.

The headscarf controversy in Turkey is selected to illustrate how different regulatory-rights frameworks on the same issue across time create different pathways leading to different outcomes. The report will first focus on the transformation of the context and Attunement models, or its lack-there-of regarding the headscarf ban. Then, it will discuss how these models changed the sense of belonging for the veiled women. Finally, it will identify the outcomes of different regulatory-rights pathways for the veiled and unveiled women as in time, the power balance shifted at multiple levels.

Context, Belonging, Outcome

Secularism in the Turkish case goes beyond being a principle about separating the affairs of the state and the religion. First, it is about how to regulate religious affairs. Secondly, it is about the permissible scope of the visibility of religion and religiosity in the public sphere. These two dimensions have shaped the debates over secularism in Turkey into a secular-Islamist cleavage that performs at both the societal and state levels.

Islam as the state religion was removed from the 1924 constitution with an amendment in 1928. Secularism as an irrevocable provision entered the constitutional framework in 1937; however, the regulatory-rights pathways predated the constitutional arrangement to 1924. The Law on the Unification of Education dated 1924 closed the education facilities with a religious character, and further reforms followed this law until 1937 to secularize the education system. A new judiciary system was formed by stripping religious characteristics again in 1924. The Directorate of Religious Affairs (*Diyanet*) was also established in 1924 in the similar period with the inception of the reforms of secularizing the education system. Diyanet was designed as an institution within the state organization, and, "The state is given supervisory powers over religious rights and liberties as the guardian of the public order and public rights", as acknowledged by its former director Ali Bardakoglu (Bardakoğlu 2004, 3). In sum, the reforms in the education and judiciary system, the establishment of Diyanet, and the acknowledgment of secularism as one of the irrevocable constitutional provisions in 1937 shaped the regulatory aspect of the first dimension.

The second dimension, namely the scope of the permissible visibility of religion and religiosity in the public sphere, is related to the first dimension with a more specific focus on the societal level. In 1925, a law popularly known as the Hat Law prohibited wearing traditional outfits for men. In 1926, a new civil code was adopted based on the Swiss model, which abolished polygamy and provided equal rights for women regarding the issues of divorce and inheritance. In 1934, a more comprehensive law was put into effect, which specified that the religious functionaries belonging to all religions could not wear outfits related to their occupation outside the religious facilities and further banned all kinds of religious accessories in the public sphere. In other words, the regulatory framework until 1934 focused on men, specifically the religious clerics. This did not mean that women's clothing was not regulated. It might rather be argued that women outside the upper classes were not much visible in the public sphere in this period and hence probably specific regulation was deemed unnecessary. The civil code granted equality regarding inheritance and divorce, however, maintained the husband

as the legal head of the household (Tekeli 1992, 140). Some scholars referred to this early Republican policy as a type of state feminism (Tekeli 1986). The palatable image of Turkish women was constructed as heroic, nationalist, modern, and motherly. In other words, women were idealized as the wives and mothers of the Republic with "republican responsibility" (Coşar and Özkan-Kerestecioğlu 2017, 153). From this perspective, women's clothing and lifestyle perceived as anti-republican was also subject to control and restriction. In 1935, a circular letter was issued to ban any outfit that might prevent the visibility of the face, which would mean Islamic clothing for women. Again, possibly due to the limited public presence of women, there was not any notable crisis until the 1960s. The increase in the number of female students enrolled at the universities along with the general politicization at the campuses, gradually channeled the tension more towards women's clothing. This development intertwined the two dimensions (state and societal) together. The September 12, 1980 coup resulted in the takeover of the military establishment and led to a dual rule that lasted until way beyond the mid-1990s. On the one hand, the multiparty elections were resumed after a brief interval in 1983. However, the military-bureaucratic establishment continued to prevail through the National Security Council (NSC) as a tutelary institution. As the new system perceived the rise of political Islam as a threat to the republican order, a series of regulations were put into effect. Among these, concerning women, the circular letter dated 1982, stipulated proper clothing at the public institutions for both women and men. The parliament passed two legislations in 1988 that allowed women to cover their heads at the universities, which were both vetoed by the president Kenan Evren, who had led the 1980 coup. The constitutional court confirmed the president by declaring the legislation against the constitution. In 1989, the Barr Association got a decision that female lawyers had to be unveiled. In 1990, Higher Education Law reconfirmed the freedom of clothing at the universities with an amendment of its additional clause number 17. In this way, until 1998, despite discrimination against veiled women in the public sphere, the regulatory-rights framework enabled their enrolment at the universities.

The decisive turning point came after the February 28, 1997 quasi-coup, when the NSC forced the government of the center-right True Path Party and the Islamist Welfare Party to step down. Popularly referred to as the February 28 Process, business enterprises, schools, and other organizations deemed as affiliated with the Islamist movement were closed down, and a comprehensive purge led to the ousting of many people from public institutions and the army. NSC also circulated a decision that directly concerned veiled women: any outfit against the clothing regulations and those against the modern image of Turkey should not be allowed at educational institutions. University rectors followed the lead and veiled women were deprived of their education rights. A veiled MP could not get her mandate in 1999 as she could not finish her duty oath at the parliament.

The **context** from 1935 until the 2000s was explicitly exclusionary regarding veiled women. It might be argued that not only women, but also men were targeted and excluded; however, this would be an understatement of the exclusion women suffered compared to Islamic men. Although the Islamic dress code identifies proper clothing for both men and women, men's appropriation of Western-style clothing did not create considerable controversy among Islamic circles except in some radical communities (Dikici Bilgin 2021, 481). This was rather seen as a necessary step for men to work and engage in business activity. The regulations came with the February 28 Process meant deprivation from education for women mostly; and the Islamist men joined the protests to support veiled women's right to education; rather than a general right to religious clothing, except a few instances. Despite the wording of the clothing restrictions targeting Islamic clothing for men (having Islamic style bearding and baggy trousers) and women (specifying headscarf), it was clear who was targeted. The posters carried in the protests against the ban also acknowledged who was targeted such as "Başörtüsü zulmü" (Headscarf oppression). Veiled women invoked the right to education as a basic constitutional and human right.

A European Human Rights Court (EHtRC) decision as per the "Case of Leyla Şahin vs Turkey" provides insights into the regulatory-rights framework of the headscarf controversy. The applicant was a veiled woman at a medicine faculty who was denied access to a written exam as she refused to remove her headscarf. The applicant argued that "the circular and its implementation had infringed her rights guaranteed by Articles 8, 9 and 14 of the Convention and Article 2 of Protocol No. 1, in that there was no statutory basis for the circular and the Vice-Chancellor's Office had no regulatory power in that sphere." However, the EHtRC's verdict rejected her claims of violation in all aspects with a majority decision (Leyla Şahin v. Turkey 2005).

The Justice and Development Party's (JDP) coming to power in 2002 turned the tables. The Higher Education Council lifted the ban in 2007. A constitutional amendment in 2008 lifted the ban on wearing headscarves at public institutions, though declared unconstitutional at the time by the Constitutional Court. The ban was finally lifted in 2013 at the universities. In 2015, it was extended to the judicial roles and in 2016, to the police force.

However, the **context** since 2002 cannot be identified as one of emancipatory. JDP's policies have been increasingly Islamist since its electoral victory in 2011. Constitutional amendments and partisan appointments to the higher courts undermined the independence of the judiciary. De-secularization of the education system was dramatic. The clerical schools known as the İmam-Hatip increased in number and financially supported, partisan principals have been appointed to the public schools, outspoken teachers either expelled or relocated to the periphery, forced to resign and the religious courses in the curriculum continue to increase in general and expand towards the younger years. Headscarf rhetoric and victimhood discourse have been playing an important role in the construction and justification of the Islamization policies (Yilmaz 2017; Kaya 2015). There has been increasing pressure on the unveiled women working in the public sector and

exclusion from promotion. Although the government's Islamization policies enabled veiled women to have more presence in the public sphere comfortably, it also meant more exclusion for unveiled women and LGBTQI+ individuals with the consolidation of anti-gender discourse.

It should also be questioned to what extent the post-2002 context can be considered emancipatory for veiled women. It is true that veiled women no longer face discrimination in education and work for being veiled. A decision by the Constitutional Court gave the verdict that the applicant's rights to freedom of belief and to education were violated (Başörtüsü Yasağından Dolayı Üniversiteyle İlişiğin Kesilmesi ve Bursların İadesinin İstenmesi Nedeniyle Din Özgürlüğü ve Eğitim Hakkının İhlal Edilmesi 2018). On the other hand, they continue to be discriminated against for being women. The initial support of the party to women's organizations disappeared, critical Islamist women were purged from their positions and even persecuted. JDP's policy towards women is not one of gender equality, but rather one of familialism (Akkan 2018; Atalay 2019). The patriarchal nature of the gender policy did not democratise or bring emancipation to women. The expected republican responsibility is replaced by an Islamic responsibility. The ideal of Western-looking, sacrificing, caring mother became Islamic-looking, sacrificing, caring mother. Hence, the context of the post-2002 period might be defined as uneasy because the previously excluded groups did not reach full emancipation, continued to have legitimate and potentially dominant claims and existed together with the unveiled women with their own claims and resentment.

The complexity of the context in the Turkish case makes it a daunting task to determine the modes of **belonging**. The period from 1930s until 2002, especially in the 1990s poses a resentful belonging. Veiled women could not enrol to public universities, could not work at bureaucracy, education, judiciary and law enforcement. They also faced slander and discrimination at the societal level. In the current situation, the improvement regarding the social status of veiled women in my opinion brought a more positive sense of belonging. At the state level, the discrimination against women continues, but less so for veiled women. There are symbolic appointments at the police, army, bureaucracy, and universities to high-ranking positions. At the societal level, there is an increasing understanding and self-criticism among the secular circles. Especially among the secular women, there emerged an understanding of how discrimination based on clothing and the way of life leads to feelings of injustice, grievance, and alienation. The secular main opposition party, Republican People's Party (RPP), proposed a draft bill to secure the women's right to work in the public sector, regardless of being veiled or not in 2022. This move is important for both symbolic reasons and how regulatory-rights pathways might lead to peaceful belonging and integration. The JDP tried to overturn RPP's draft legislation by a constitutional amendment. The content of the proposal again is not emancipatory for women, rather familialist. It puts emphasis on the protection of the family and threats from the LGBTQ community (*Bianet* 2022). In the span of time, many Islamist women who participated in the headscarf ban protests also realized that being permitted to the public sphere is more of a marker of being in power rather than empowering devout women. Some Islamist women's reaction to the JDP's proposal provides insights in this regard and support the argument that it is more of a case of precarious belonging. Fatma Bostan Ünsal, an Islamist activist and one of the founding members of the JDP, for example, claims that the government party utilizes the trauma of the veiled women to consolidate its electoral base at a time of economic crisis, and argues that the RPP's attempts to build an integrative regulatory-rights framework is genuine and positive. Veiled and unveiled women, unlike men, found a way to co-exist most of the time, yet with suspicion and fear among each group that change of power would never let both groups of women be free at the same time.

How can we evaluate the **outcome** given that the context of the headscarf controversy in Turkey transformed from exclusionary to uneasy and the modes of belonging changed from one of resentful belonging to precarious belonging? As both the context and the modes of belonging changed in time, the outcome has shifted. Until 2002, the outcome for the veiled women was clearly rejection. With the JDP in power since 2002, improvements in the regulatory-rights pathway improved the outcome. The injustice experienced by veiled women is now widely recognized among the secular circles at the societal level and by the parties and other collective actors previously pursuing hard-line secularist policies. The legal and policy framework identified the injustice and grievance. However, the outcome still cannot be identified as transformative since achievement of attunement still remains partial. Self-criticisms of the secular actors and RPP's legislation proposal indicate that there is a dialogue in favor of institutional, legal and policy frameworks. Co-existence is peaceful; however, distrust dominates the relations. Before the general elections in May 2023, the concerns stated by veiled women that their position might be challenged in case the secular opposition wins supports the argument that it can at best be considered as an outcome of dialogue.

Synthesis of Rights/Regulation Pathway

The headscarf controversy in Turkey constitutes an enlightening case for discussing how support for expanding the freedoms of certain groups while advocating restrictions on others might unfold in the course of history. The regulatory-rights process selectively targeted women although it has been a wider power struggle to dominate the state establishment and define the "proper" formation of the public sphere. Strength of the organizational power of religion since the Ottoman Empire, and inception of the Republic as a context of fragile victory for the modernist Republicans over monarchists supported

by the Islamists transformed secularism from a constitutional principle into an institutional and ideological struggle of domination. The ruling coalition of politicians, parties, bureaucracy and military initiated and implemented a hard-line secularization policy framework, which ended up singling out practicing women until JDP came to power in 2002. While veiled women were excluded from education and work, Islamist capital continued to prosper in this period. The February 28 Process harmed certain small and medium Islamist businesses, however, Islamist big capital remained largely untouched. Especially, in the 1990s, veiled women responded to the ban in mass protests emphasizing that the ban violated the right to believe, freedom of expression and education. Interestingly, Islamist men, who gave support to women protestors, did not argue for freedom of the Islamic dress code in general and limited their advocacy to the right to be veiled.

JDP's coming to power, especially in its early years, gave hope that there might finally emerge an emancipatory context, with heightened sense of belonging and a transformative outcome. However, attunement remained partial for several reasons. First, the regulatory-rights pathways adopted by JDP achieved at best an uneasy context. The party followed a familial policy, re-emphasizing the traditional gender roles, attributing motherhood to women, rather than providing social justice to all women. Legal and policy changes improved the conditions and status of veiled women, while Islamization and familialism continued to prevent emancipation. Many Islamist women, who played an important role in Turkish Islamism and even participated in the founding of the party were sidelined and silenced. Promotion and appointment to high-rank positions remained symbolic by and large. Despite the improvements, senses of belonging improved from one of resentful belonging, yet failed short of heightened. Activist Islamist women felt disillusioned that the party sidelined them once it consolidated its power. As mentioned around the issue of the headscarf proposal of 2022, the feeling that their trauma is capitalised by the party for political purposes rather than bringing social justice led to a sense of precarious belonging. The precarity which came with continued distrust and fear prevented transformation of the Turkish context for the veiled women. An outcome of dialogue emerged as the hard-line secularists recognized the consequences of exclusion and discrimination which enabled Islamization policies with public support and activist Islamist women increasingly recognize that the controversy goes beyond headscarf. To put it explicitly, whether women should be veiled or not is not a controversy among women. On the contrary, it is proxy class war and power struggle between men (Dikici Bilgin 2021).

Conclusion

In conclusion, the headscarf controversy case illustrates that regulatory-right pathways need a wider understanding that any religious conflict also has gender and social class dimensions. As long as it is reduced to a lifestyle choice, it is not possible to create a democratic and emancipatory regulatory-rights pathway that might end up in an emancipatory context where discriminated groups have heightened sense of belonging due to comprehensive attunement, inclusivity and social justice. Only then, the outcome can be transformative.

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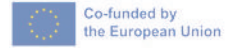

CASE #2

Turkey's Alevis

Prism case analysis

Turkey's Alevis constitutes a different type of case in which the context remained exclusionary, yet, despite discrimination, there has never been an institutional or collective exclusion towards the Sunnis among the minority. Although never attuned, the divergence context remained non-conflictual as even the deadly sectarian attacks on the minority did not lead to retaliation. One might argue that Alevis also politicised especially in the 1970s as especially young Alevis joined the leftist organisations and took part in left-wing radicalization. There are also Kurdish Alevis involved with the PKK attacks. However, radicalization was not along sectarian lines. In both left-wing and separatist organisations, it was ideological or ethnic radicalization. The mode of belonging can be described as precarious. The Alevi minority, by and large, has remained committed to the secular and republican characteristics of the state. Although the Turkish state did not extend official recognition and systematically kept the Alevis in a marginal position by preventing promotion to important bureaucratic and political positions substantially; secularism itself was seen as one of relative achievement as the state policy towards Alevis in the Ottoman period to the Republic changed from one of legal and formal persecution to one of negligence at the official level. Alevis retained suspicion, but persistently relied on relative achievements of attunement. The legal cases opened up by the Alevis for official recognition and exemption from the religious courses worth discussing the regulatory-rights pathways in a comprehensive way.

Case	Context	Belonging	Outcome
Turkey's Alevis	Non-conflictual / Exclusionary	Resentful / Persistent	Rejection

Case Overview

Secularism has been a fundamental aspect of the Turkish constitutional framework since 1937. It is formulated as an irrevocable and unchangeable article. In accordance with the secularism principle, the state affairs were separated from the religious affairs. Article 136 of the constitution established a Presidency of Religious Affairs (Diyanet İşleri Başkanlığı, Diyanet) to work according to the principles of secularism. In this way, the religious authority is subjugated to the political authority. Article 24 provides freedom of religion and conscience; however, the constitution does not recognize religious diversity beyond the scope of the Lausanne Peace Treaty. In practice, this brought Sunni Islam as the dominant interpretation of Islam and does not grant the Alevis political and public recognition (Dressler 2015). The Alevi worshipping places named as cemevi do not have legal status of a religious centre and, hence, do not have access to public resources, unlike the mosques dominated by the Sunni clerics (Borovalı and Boyraz 2016). Overall, although the principle of secularism is a progressive principle vital for a democratic system, its application in Turkey fails to resolve the secular-Islamist divide and recognize the diversities within the Muslim community.

Beyond the legal status, the Alevis have experienced discrimination, mistreatment, and even violence since the early periods of the Republic. There had been two mass massacres in Çorum and Maraş in 1978 and 1980 targeting the Alevi neighborhoods. As Ertan argues, the violent attacks in the late 1970s had a combined ideological and religious motivation

as many Alevis, particularly the youth, joined the leftist organizations (Ertan 2019, 939). The enforcement of the state-led Islamization policies following these massacres, hence, increasingly polarized the Alevi identity (Boyraz 2019, 773; van Bruinessen 1996, 8). Some authors emphasize the role of the Alevi diaspora living in Europe in endorsing Alevi revivalism due to the enabling political context in the Western European countries, especially Germany (Massicard 2011; Demiray 2004; Özyürek 2013). Support of the leftist intellectuals to the non-orthodox interpretation of Islam in Alevism continued in this period. In 1993, during a cultural gathering that brought together Alevi leaders, artists with leftist intellectuals, the radical Islamists attacked the main hotel the group was accommodated leading to the death of 33 people. Another deadly attack came in 1995 when a group attacked an Alevi neighbourhood in Istanbul. The Justice and Development Party's coming to power did not make things easier. Especially when Kemal Kılıçdaroğlu, an Alevi politician, was elected as the new leader of the main opposition party, the Republican People's Party, government policy moved beyond legal blindness and downplaying the importance of attacks on the Alevi community to one of hostility. In the last decade, the Alevi issue ascertained a new regulatory-rights dynamic as Alevis applied to add Alevism as the religious affiliation to the identification system and asked for exemption of their children from the courses on religion on the basis that these courses are shaped around Sunnism imposed the Sunni belief on the Alevi students.

Method and Case Justification

This work package seeks to analyse how human rights and protections combined across socio-political contexts might result in different pathways. In certain situations, where integrative institutional, legal, and policy frameworks are put into effect, the outcome might be transformative and promote freedom of expression and democratic consolidation. In the opposite situations, where regulations expand the socio-political space only for selected groups, mutual resentment, distrust and fear prevail, limiting the outcome to continued rejection. In most situations, the pathways lead to outcomes in between rejection and transformative. There might be partial attunement in these situations.

Turkey's Alevis constitute a case in which the context remained exclusionary, yet, despite discrimination, there has never been an institutional or collective exclusion towards the Sunnis among the minority. To this day, the discourse has been one of peaceful and respectful co-existence. Although never attuned, the divergence context remained non-conflictual as even the deadly sectarian attacks on the minority did not lead to retaliation. One might argue that Alevis also politicized especially in the 1970s as especially young Alevis joined the leftist organizations and took part in left-wing radicalization. There are also Kurdish Alevis involved with the PKK attacks. However, radicalization was not along sectarian lines. In both left-wing and separatist organizations, it was ideological or ethnic radicalization. The mode of belonging can be described as precarious. The Alevi minority, by and large, has remained committed to the secular and republican characteristics of the state. Although the Turkish state did not extend official recognition and systematically kept the Alevis in a marginal position by preventing promotion to important bureaucratic and political positions substantially; secularism itself was seen as one of relative achievement as the state policy towards Alevis in the Ottoman period to the Republic changed from one of legal and formal persecution to one of negligence at the official level. To this day, even the Diyanet does not officially condemn Alevism, at least in the public sphere. Alevis on the other hand retained suspicion, but persistently relied on relative achievements of attunement. The legal cases opened up by the Alevis for official recognition and exemption from the religious courses worth discussing the regulatory-rights pathways in a comprehensive way.

Context, Belonging, Outcomes

To this day, the Turkish state institutions do not grant an official status to the Alevi belief system. Alevism can be generally defined as an heterodox interpretation of Islam, a splinter from Shia denomination which integrated mystic beliefs predating Islam with the Quran. The Lausanne Treaty continues to comprise the historical benchmark of the regulatory-rights pathways concerning ethnic and religious minorities within the borders. This framework does not provide any avenue for recognition as the Kurdish Alevis are considered not as minorities because Kurdishness is not a legally recognized minority status and the Turkish Alevis do not fit to the category of any ethnic or minority group. They have been treated as a subculture, though with contempt at the social and state level. The main worshipping place, named *cemevi*, is officially designated as a civil society organisation, a status similar to that of a neighborhood club. This exclusionary context enabled the nationalist and religious groups to attack on the Alevi neighborhoods at more than one instance.

Before discussing the state-led radicalization towards the Alevis, it is worth analyzing the effect of the exclusionary **context** on the dualist nature of the mode of belonging among the Alevi community. On the one hand, non-recognition and discrimination led to resentment with the establishment. In terms of voting behavior, this resulted in the Alevi support to the rising opposition parties from the inception of multiparty politics in the 1950s. Although the Democratic Party (the first opposition party of the multiparty period) was at best a liberal-conservative formation, perceptions for a change in the regulatory-rights framework garnered substantial votes to the Democratic Party in the first multiparty elections. The

Democratic Party, which came to power, however, followed a more conservative approach, which pushed the Alevis back in opposition once again. On the other hand, the context triggered a mode of persistent belonging which survives to this day. The establishment of a republic in place of a theocratic empire was an improvement for Alevis. The possibility of a secular republic, not based on an explicitly Sunni interpretation of Islam, appealed to the Alevis, which partially explains the support they gave to the independence movement in the 1920s. The fact that the formative party, Republican People's Party, did not grant the long-awaited recognition was disappointing; however, both the new constitution and the clauses of the Lausanne Treaty at least enabled the community to live in a socio-political system where they were no longer under explicit oppression. Disillusionment with the Democratic Party further consolidated the belief that official secularism provides a certain level of protection from the more zealous actors.

This dual mode of **belonging**, resentful yet persistent, accelerated Alevi radicalization along not sectarian but ideological lines in the 1960s and 1970s. Many young Alevis joined left-wing organisations in this period. However, this triggered a reaction from not only the religious groups but also the ultranationalists of the time. In 1978, the nationalist-Islamist groups attacked the Kurdish Alevi neighbourhood in Kahramanmaraş, which resulted in the death of over 100 people, along with destruction of their houses and properties. In 1980, the Alevi neighbourhoods in Çorum were attacked, which left behind more than 50 people dead. Alevi community also suffered from the September 12, 1980 coup as many Alevis who were active in the left-wing organisations were tortured, killed and disappeared.

The post-1980 period is critical for understanding the contemporary situation. Heavy humanitarian losses in the immediate aftermath of the coup, pushed the Alevis back to a legalistic position. The Alevis supported the Social Democratic Populist Party in its formation and took a side along the annulment of the political bans in the 1987 referendum. In the similar period, another dynamic was in the process of formation in Europe. The Alevi diaspora in Europe was building up since the 1960s when Germany started its migrant workers program. The Alevis, mostly living in the rural areas in that period, went to Germany in masses as migrant workers. The political activists who managed to flee from the coup joined the diaspora and politicised the community. The Alevi diaspora in Europe had accumulated some wealth in the two decades, have been living in a context where their religious affiliation was a non-issue and embraced the political asylum seekers as many of them were also family relatives. Therefore, it is not wrong to claim that the Alevi revival originates from Europe, not from within Turkey.

In 1993, with considerable material and intellectual contribution from the Alevi diaspora, a cultural festival was held in Sivas, a province historically claimed by the Alevi community. Alevis were not the only participants. Socialist and social democratic artists, writers and journalists attended the festival, which turned into a massacre as the jihadist mob attacked the hotel where the participants were staying and burned more than 30 people alive. The Sivas massacre did not change the rights pathway however opened up pores in the social fabric for greater recognition of the existence of the Alevi minority. Referred as the Alevi revival, this instigated a search for recognition underlined with a strong commitment to the secular nature of the constitution. In other words, Alevis did not get recognition officially, but the "incident" allowed maintaining a persistent mode of belonging, as the liberal-left non-Alevi democrats opened up a space. Specifically speaking, it was a transition from being unspeakable to would be speakable.

The Justice and Development Party's rise to power influenced the Alevis' mode of belonging. As a pattern from the period of the independence movement, prospects of normalization and recognition put the Alevis in a dual situation. On the one hand, the sensitivity over and prioritization of secularism, led many Alevis to put a distance between the Justice and Development Party and their community as the party has a pedigree with the Islamist movement. On the other hand, the party had denounced its Islamist origins and developed a self-attained liberal conservative position in its early years. Erdoğan's Berlin visit and meeting with the leading members of the Alevi diaspora in Germany in 2003 created similarly mixed reactions. The party announced the policy of "the Alevi opening" in 2007 by adding Alevi politicians to its ranks. In 2007, a university was established in Nevşehir, the historical center of Alevi-Bektaşi belief, named after Hacı Bektaşi Veli, an Alevi-Bektaşi religious leader from the 13th century. As the move did not contain any concrete changes in the regulatory-rights pathway, the leading Alevi associations organized a big Alevi meeting in 2008, which faced a backlash on securitizing grounds from the party cadres. In 2009, the government organized a series of Alevi workshops, and released a results report in 2010, which did not again contain any changes in the regulatory-rights framework. The party at the time passed a package of legal amendments in 2010 which foresaw dramatic changes in the courts and justice system in general. The Alevi associations openly criticized the referendum, which probably put an end to the Alevi opening of the Justice and Development Party.

The period since 2010 turned once again to be an explicitly exclusionary **context**. Erdoğan implicated the Alevi origins of the new leader of the Republican People's Party as campaign material in the elections. The government in the same period accelerated its Islamization policies in all aspects of the socio-political system ranging from expanding the budget and the jurisdiction of the Presidency of Religious Affairs to staffing the bureaucratic institutions with people of publicly known religious order affiliations. Alevis, as the community with the most precarious status in such an Islamization context, consolidated their votes in the opposition and also sought legal mechanisms. At the time, religion was part of the national identification card. Exhausting the national legal mechanism, an Alevi suitor applied to the European Court of Human Rights, and won the case that the identification cards should not identify the religious affiliation, and if identifies, it was unruly that

the plaintiff cannot identify Alevism as one of the options (*Cumhuriyet* 2010). The court decision did not lead to an **outcome** of recognition, however, the section on religion was removed from the identification card. The Alevis also applied to the constitutional court that the compulsory course on religion does not recognize Alevism therefore it should be annulled or re-organized to include Alevism. Although the Constitutional Court ruled in favor, the course remained in the curriculum, but revised in a way to refer to Alevism as a subcultural element.

These elements of the regulatory-rights pathway as a dual policy of exclusion and engagement characterize the Justice and Development Party's policies since 2002. On the one hand, the government party pursues a hostile policy and undermines the legality and legitimacy of the Alevis, on the other hand, as the party reaches its limits of support, it tries to divide and co-opt the Alevi community.

The contemporary revision in the regulatory-rights pathway illustrates this dual policy which maintains the exclusionary context, but also tries to domesticate Alevism as a cultural, not religious element of the society to break up the opposition. In 2019, the government started a project of opening up a high school specifically for the Alevis, in a district of Istanbul, heavily populated by the Turkish Alevis. The government circles argued in favor of the Alevi high school as a progressive change, however, it met rejection from the Alevi community. For once, the Alevis seek equal citizenship, rather than a communitarian perspective that reminds of government practices in Iran and Lebanon. Secondly, the high school administration would be led by a Sunni and religious oriented GONGO, which meant that the government, not the Alevis, would be decisive in the curriculum (*Gazete Duvar* 2019). The reaction eventually resulted in the withdrawal of the project. More recently, in November 2022, the government built a Directorate of Alevi-Bektaşi Culture and Cemevis under the Ministry of Culture. This again met with criticism from the leading Alevi associations. First, it was built under the Ministry of Culture, meaning that it does not indicate a change in the regulatory-rights framework and relegates Alevism to a cultural tenet. Secondly, it is perceived as a clientelist policy to divide and co-opt the Alevis.

Synthesis of Rights/Regulation Pathway

The Alevi issue in Turkey has been in an exclusionary context in the Republican period, though the way the exclusion functioned changed over time. The early Republican policy sought to homogenise the society, limiting the minority status to the non-Muslims only. In a way, this was a progressive move for the Alevi minority which was explicitly discriminated against and oppressed by the Ottoman Empire since the 19th century, when the central Ottoman administration cracked down on the Alevi-Bektaşi religious centers to regain control of the army. Secularism principle of the Republican constitution enabled Alevis to live in a condition under constitutional guarantee. On the other hand, the Republican regulatory-rights pathway did not grant official status to Alevism as a religious sect. The context was on the one hand exclusionary, but on the other hand, provided some constitutional protection against the zealous Islamists. The resentful yet persistent mode of belonging among the Alevi community can be explained by the peculiarities of this context.

Conclusion

The Justice and Development Party's coming to power in 2002 met with concern and fear from the Alevis as the party has an Islamist pedigree and appointed former Islamists targeting the Alevi community in the past. On the other hand, a small part of the Alevi community responded to the supposed Alevi opening of the party in 2007 until 2010 when it became clear that the government had no intention of granting an official recognition and changing the regulatory-rights pathways significantly. Contemporary policy of the government to install a directorate under the Ministry of Culture hence fails to provide a positive outcome. It is a clientelist policy to divide the opposition from the Alevi community, relegate the belief system to a cultural fragment and define Alevism by the state without any concrete contribution to the Alevi communal leaders. In this sense, the context remains exclusionary, while the Alevis' mode of belonging to the Republic remains persistent, however, the outcome is still rejection in the sense that Alevism is still not recognized as a religious denomination.

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CASE #3

Secular-Islamist Cleavage in Tunisia

Prism case analysis

The Tunisian case illustrates how attempts of rapprochement between rival groups fail due to the deliberate state policies to maintain an exclusionary context, following a divide-and-rule policy which led to mutually resentful modes of belonging and an outcome of rejection. There had been rapprochement between the Islamists and the regime at different historical periods. The conflict between the Islamists and the Tunisian state has pertained to the definition of palatable form of Islamism to establish the cultural hegemony rather than a secular-Islamist cleavage. However, for both the political movement and ordinary devout people, the context has been exclusionary. Suspicion of affiliation with any Islamist organisation or public display of piety met with oppression. There were also moments of rapprochement between the Islamists and the seculars; however, mutual resentment prevailed and each side continues to reject the existence of another. The mode of belonging has been a combination of resentful and persistent. Secular and Islamist opposition's mode of attunement might have aligned during the former regime as the regime prosecuted both sides; however, it remained as a fragile attunement, easily decomposed in the face of political competition. There were temporary periods of weak persistent belonging, given the fact that at least Ennahda sought ways of reconciliation with the state institutions and integration into the political system through legal channels, even during the one-party period. The autogolpe of 2021 erased any possibility of modes of outcomes except rejection. Mass support for Saied's constitutional referendum in 2022, reaching 90%, shows that Tunisian Islamists might not expect even an ambiguous disengagement at social or political levels in the near future, as are the secular parties.

Case	Context	Belonging	Outcome
Secular-Islamist cleavage in Tunisia	Exclusionary	Resentful	Rejection

Case Overview

Contemporary Tunisian political system originates from the permanent Ottoman imperial rule in the 16th century and its overtake under French colonialism in the late 19th century. Despite the powerful anti-colonial independence struggle in the early 20th century, Tunisia did not become an independent republic until the mid-1950s, when a united front led by Habib Bourguiba abolished the monarchy and established a one-party authoritarian rule. The new republican system was progressive in certain aspects as the new system installed secularism and gave women more rights than neighbouring countries. All these progressive policies remained to the confines of the one-party rule. Women might be better integrated to the social and political life and prevented from religious persecution in relative terms; however, the regime never allowed the formation of an independent and radically democratic women's movement. Secularism was also utilised as an authoritarian strategy to suppress Islamist opposition. Zeynel Abidin Ben Ali's coming to power in 1987 with a palace coup gave hope to the Islamists, particularly, that Islamist organisations would be allowed to form legal political parties. On the contrary, the initial implicit alliance between Ben Ali and the Islamist opposition led by Ennahda was replaced by fierce conflict, leading to imprisonment and exile. The regime had been suppressing the leftist opposition as well; however, the Ben Ali administration allowed the formation of loyal and semi-loyal secular parties to whitewash the authoritarian rule and delegitimize the Islamist movement as a foreign-funded terrorist organisation rather than a political movement.

Tunisia was the first country where the popular uprising in December 2010 began which would later be known as the Arab Uprisings and spread across the region. It was also the first country where the dictatorial rule was overthrown and multi-party elections instated. Ennahda and several other Islamist and secular organisations registered as legal parties and competed in the elections until 2021. Kais Saied, who was elected as president in 2019, first suspended and then dispersed the parliament in 2021 in the form of an autogolpe. Although the Ennahda Party had denounced political Islam and presented a new program in the form of Muslim democracy in 2016, several of their members were apprehended and imprisoned since 2021. In June 2023, the remaining party leadership announced that they would not be able to hold the party congress due to oppressive state policies. The party's historic leader Rashid Ghannouchi along with key politicians resigned from party membership to prevent total extermination of the party.

Method and Case Justification

This work package seeks to analyse how human rights and protections combined across socio-political contexts might result in different pathways. In certain situations, where integrative institutional, legal, and policy frameworks are put into effect, the outcome might be transformative and promote freedom of expression and democratic consolidation. In the opposite situations, where regulations expand the socio-political space only for selected groups, mutual resentment, distrust and fear prevail, limiting the outcome to continued rejection. In most situations, the pathways lead to outcomes in between rejection and transformative. There might be partial attunement in these situations.

The Tunisian case illustrates how attempts of rapprochement between rival groups fail due to the deliberate state policies to maintain an exclusionary context, following a divide-and-rule policy which led to mutually resentful modes of belonging and an outcome of rejection. There had been rapprochement between the Islamists and the regime at different historical periods. Ennahda's efforts for recognition by the Tunisian state can be traced back as early as early as 1970s; so does the factional split between the pro-Muslim Brotherhood and Tunisian Islam wings of the party. The former regime's anti-Islamism might be related more to the power struggle than an ideological secular impulse. Bourguiba's policies towards Islam was quite pragmatic, he relied on religious legitimation and his modernization efforts have been more about establishing hegemonic control over the public space, defining religious practice; and curbing the power of religious authority outside the domain of the state (Zeghal 2013, 255). His successor Ben Ali went as far as declaring himself as the defender of Islam (McCarthy 2014, 734). In other words, the conflict between the Islamists and the Tunisian state has pertained to the definition of palatable form of Islamism to establish the cultural hegemony rather than a secular-Islamist cleavage. However, for both the political movement and ordinary devout people, the context has been exclusionary. Suspicion of affiliation with any Islamist organisation or public display of piety met with oppression. There were also moments of rapprochement between the Islamists and the seculars; however, mutual resentment prevailed and each side continues to reject the existence of another.

The mode of belonging has been a combination of resentful and persistent. On the one hand, the Islamist movements engaged in violent attacks in the 1970s and even after the revolution. The Islamists assassinated two prominent leftist politicians in 2013. Secular and Islamist opposition's mode of attunement might have aligned during the former regime as the regime prosecuted both sides; however, it remained as a fragile attunement, easily decomposed in the face of political competition. This has made them vulnerable to rejection of the state institutions despite the regime changes since the 19th century. Both sides did not refrain from allying with the regime at the expense of the other. There were temporary periods of weak persistent belonging, given the fact that at least Ennahda sought ways of reconciliation with the state institutions and integration into the political system through legal channels, even during the one-party period. The autogolpe of 2021 erased any possibility of modes of outcomes except rejection. Mass support for Saied's constitutional referendum in 2022, reaching 90%, shows that Tunisian Islamists might not expect even an ambiguous disengagement at social or political levels in the near future, as are the secular parties.

Context, Belonging, Outcomes

Tunisia can be considered as one of the two major outliers in the Muslim-majority Middle East and North Africa (MENA) region along with Türkiye. The two countries are distinct in their adoption of Western political institutions characterised by state secularism and state feminism until the last couple of decades. Both countries identified political Islam as the main challenge to the foundations of the political system for decades. However, the way the two countries handled Islamist politics has been different. Until the Arab Uprisings of 2011, which changed the one-party authoritarian regime, there were no meaningful multiparty elections, and Tunisia did not allow the Islamist movement, which led the opposition since the 1970s, to form a legal political party.

The Tunisian **context** has been exclusionary for any kind of opposition since the 19th century. In the earlier part of the century, the dynasty affiliated with the Ottoman empire introduced a series of reforms. The reforms were composed of

a massive set of regulations in the military, financial and administrative areas. However, the reforms targeted the way Islamic education was controlled by the state and imposed a specific interpretation of the religion (Wolf 2017, 13). In the later part of the century, under the French mandate, reforms continued along similar lines. The intention was to reconcile the traditional culture dominated by religion with modern scientific understanding, notably illustrated by the foundation of the Sadiqi College. As in the cases of Türkiye and Morocco, which form the other country cases in the WP2 reports, the Westernization reforms led to the emergence of a cleavage, which can be referred to as the traditionalist vs modernist as well as secular vs Islamist.

The aim of reconciliation between traditions and modernity/Westernization obviously contained a motivation to undermine the institutionalised power of the religious authority which has remained at the core of the cleavage to this day. A third characteristic of the regulatory-rights framework in the 19th century was related to the colonial experience as in the case of Morocco. The traditionalists saw modernization reforms as intrinsically related to colonial practices and accused the modernists of being in collaboration. Modernists on the other hand moved to a distinct position. Reminder of the Ottoman Young Turks, the Young Tunisians Party led by a generation that received the Western-style education introduced by the institutions that came with reforms in the military and civilian education remained committed to the idea that the role of Islam should be limited in the public sphere however became the backbone of the anti-colonial struggle. The independence struggle brought a strong, but temporary, rapprochement between the modernists and traditionalists, led by Habib Bourguiba and Salah ben Youssef, respectively. The actual independence re-aligned the divergent camps and resulted with Youssef's defeat in the 1955 party congress.

The 1955 congress constitutes a moment in the Tunisian context. Youssef's faction was conservative-Islamist and pan-Arabist with a stronghold in the inner rural parts of the country, while Bourguiba's supporters were more urban, coastal, secular and modernist emphasising "Tunisian exceptionalism". In fact, the term "Tunisian exceptionalism", is at the centre of the alleged secular-Islamist cleavage. It places Tunisia above the Arab societies and attributes unique characteristics of supposedly successful synthesis of unique national features, including the attitude towards Islam with modernity, a pillar we also observe in the Turkish context. In other words, what is referred to as the secular-Islamist cleavage in Tunisia is multilevel and includes traditionalism vs modernism, geographical divergence (inner vs coastal as well as urban vs rural), and class antagonisms (Aliriza 2022). Bourguibists accused Youssef and his supporters of plotting a coup and Youssef fled out of the country, eventually assassinated in 1961. The "Youssefist plot", as referred to by Vandewalle, was used by the regime to justify the 1959 Constitution which granted strong powers to the president (Vandewalle 1980, 154). He also used the conflict with Youssef to discredit the religious clerics as accomplices. Sharia courts were abolished and the new personal status code was introduced. The new code was progressive in terms of gender relations, but also served the regime in its pursuit of undermining the power of the religious authorities. The historic center of Islamic knowledge, Zaytouna University, became a faculty of theology under the University of Tunis along with several other de-religionization reforms. The reforms, however met with reaction, led by the informally organised Islamic Tendency Movement (referred as MTI from its French initials). Ben Youssef's pan-Arabism evolved into Islamism under the new movement led by Ghannouchi, Mourou and Ennaifer.

The rise of Tunisian Islamism owes much to the authoritarian secularism of the regime and the defeat of the Arab states by Israel. It also owes to Bourguiba's policies towards the left. The regime's crackdown on the left in the 1960s and 1970s, assuming that the reorganisation of the institutions in charge of education and civil law would be enough to undermine the Islamists allowed the Islamists to mobilise the lower classes and the students (Wolf 2017, 39). This is an important point to understand that the Tunisian context was and is exclusionary not only towards the Islamists but also the secular opposition.

Once the Bourguiba regime understood the organisational strength of the Islamist movement, it became even more violent and conflictual. The Islamists were held responsible and a number of bombings and violent clashes took place between the Islamist and leftist students at the university campuses. Bourguiba's decision to send many Islamists to exile and execute the top leadership resulted in his self-elimination. His pm Zine el-Abidine ben Ali deposed Bourguiba relying on the constitutional clause which made it possible to remove the president on medical grounds from office, which came to be known as the medical coup in 1987 (Ware 1988). In other words, the regulatory-rights pathway used the laws to persecute oppositional groups, secular and Islamist alike, and remove even the president when he became a liability to the military-bureaucratic establishment. Bin Ali's initial promises of liberalisation and gradual transition to multiparty politics proved to be insincere as he arrested many politicians when threatened by the popularity of the Islamists (which changed their name from MTI to Ennahda by the time) in the 1989 elections.

The regime followed a dual policy until the 2011 uprisings. On the one hand, there were temporary openings, and a less staunchly secular appearance to ease the tensions. On the other hand, the regime continued to control the agenda of religious and political issues. Furthermore, the governing practices continued to play the Islamists and the secular opposition against each other. The context remained exclusionary for the opposition in this context, often violent which met by oppositional violent actions from time to time. The Jasmine Revolution of 2011 changed the regime and introduced real multiparty elections. Nevertheless, it should be noted that the modus operandi of the Tunisian state survived the regime change. Decades of divide-and-rule strategy bore an extremely polarised and fragmented political context in the post-2011

period. Old regime supporters, the Islamists of various factions and secular parties fought with each other resulting in instability and socio-economic crisis. Violence continued to be a part of the new context, illustrated by the assassination of secular socialist MPs by the Islamists and ISIS affiliated bombings. Inner-coastal divisions continued to accompany the conventional Islamist-secular cleavage. The seculars continued to accuse the Islamists of being unTunisian in the sense that they are allegedly under the control of other Arab states and Türkiye. Islamists on the other hand continued to see the seculars as colonial residues. Although their modes of attunement aligned during the anti-colonial struggle in 1950s and the revolution against the Ben Ali regime in 2011, Islamists and seculars resented and continue to resent each other. In the moment of Jasmine Revolution, secular and Islamists formed a national unity government in the 2015-2019 period, however, they failed to achieve attunement largely because they prioritized the coming back of the old regime rather than seeking reconciliation (Grewal and Hamid 2020).

Decades old state practices of divide-and-rule through legal authoritarianism materialised recently under Kais Saied's presidency. Saied, who won the elections as a neutral above the party's law professor, suspended the parliament in 2021. It was a time of short-living governments, a deep economic crisis and Tunisia had seen the worst Covid spike in Africa. He invoked Article 80 of the 2014 Constitution. Saied then assumed the legislative and executive powers under the presidency with the presidential decree no. 117. The opposition's divided reaction illustrates the prevailing mode of resentful **belonging** and that the regulatory-rights pathway produced an **outcome** of rejection as was the case in the pre-2011 period. Hard line old regime supporters led by Abir Moussi's Free Dostourian Party accused the 2011 revolution for the contemporary deadlock, while liberal and social democrats defended the merits of the revolution. Several centre-right and centre-left groups however supported the Decree no. 117 (Steuer 2022, 4). This internal division and mutual resentment enabled Saied to introduce a new constitution in 2022, which enacts a strong presidential system with few checks and balances.

Synthesis of Rights/Regulation Pathway

The regulatory rights pathway of the Tunisian political system has been internally consistent despite brief moments of inclusion. The strong state tradition has relied on a divide-and-rule policy which enables subjugation of both the Islamist and secular critiques of the regime under its authority. Since the 19th century, the exclusionary context mostly divided and pitted the oppositional groups against each other except for some brief intervals. The state-imposed secularisation policies led the Islamists to blame secular opposition of being colonial residues allying with the authoritarian regime after the inception of the Tunisian republic in the mid-1950s. The regime at the same time ushered crackdowns on the left in 1960s and 1970s, as well as on a diverse set of secular actors in the post-2011 period. In the post-2011 environment, when Ennahda became government partners in different cabinets, the secular parties accused Ennahda of staging violent assaults on the secular organisations and politicians including the assassination of three socialist leaders. The secular opposition has been internally divided as well. Abir Moussi, a defender of the Bourgibian past, not only attacked the Ennahda, but also the socialist left for being "unTunisian". The socialist left is already composed of minor factions, all under different political parties. They also criticised the centre-right Congress for Republic (CRP) party founded by Moncef Marzouki for collaborating with the Islamists as well as the old regime survivors (Boubekeur 2016). This extreme polarisation and fragmented carried the mutually resentful mode of belonging to the post-revolutionary era. Mutual resentment further consolidated when competing parties turned a blind eye, in not outright approval, to the harsh treatment of the other groups.

Conclusion

Saied's autogolpe of 2021 hence forms an astonishing case of failure of attunement and that the Tunisian regulatory-rights pathway's outcome as rejection. On the one hand, the post-2021 regime rejects and excludes all groups. Moussi, accused of playing into the hands of the regime by undermining the credibility of the Islamists (*Le Monde* 2023), is among the politicians most recently imprisoned. She might be considered as the last one the regime would prosecute now faces the death penalty as she is accused of "intending to change the form of government, inciting people to arm themselves against each other or to provoke disorder, murder or pillage in the country" in accordance with the Article 72 of the Penal Code.

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CASE #4

Secular and Islamic Feminisms in Morocco

Prism case analysis

Secular and Islamic feminisms and their struggle for gender equality in Morocco is selected as a case as it illustrates how a top-down legal reform can improve an exclusionary context to one of uneasy modes of attunement, but prevent heightened sense of belonging and fail short of achieving a transformative outcome. The Moroccan context began to transform in the subsequent decades particularly in the 1990s. Feminist movement, which remained largely secular and upper-middle class until late 1980s, penetrated into leftist political parties and when disillusioned with the continued patriarchal attitude in these parties, formed non-governmental organisations. In other words, it was first the change in the mode of belonging from one of resentfulness to persistence that started to change the context from strictly exclusionary to an uneasy mode. On the secular-nationalist and leftist side, an increasing awareness regarding the persistence of feminist struggle emerged. This eventually led to the Socialist government of 1998 to propose a reform plan although it was not realised into a concrete change in the regulatory-rights pathways. On the traditionalist side, it led to a rupture within the Islamist movement. The early traditionalism had given way to an Islamist current which placed religion at the core of the values and norms. Progressives among the conservative women responded to the traditional and patriarchal interpretation of Islam by reinterpreting feminist demands through the lens of religion. The feminist movement was divided on many levels, but also united for the need to secure women's hard-won gains by calling for a dramatic change in the regulatory-rights framework. 2000s marked drastic changes in the Moroccan context. On the one hand, there was a strong current demand for the improvement of women's place and status in the society. On the other hand, parliament and political parties diverged on gender issues. Monarchy has been traditionally overseeing the political space as a tutelary actor despite the existence of multiparty elections. Rising tensions gave a unique opportunity to the monarchy in this context. King Mohammed VI formed a royal commission made up of scholars, jurists and experts from diverse backgrounds; played the role of arbiter and introduced a new personal status code which garnered support from both seculars and Islamists, circumvented the controversies in the parliament and reaffirmed the position of the monarchy in 2004. However, the new regulatory-rights framework reflect the preference of the monarchy rather than the social actors. Hence, Moroccan case became an uneasy context, in which the mode of belonging remains precarious for women. The outcome could have been transformative if it emerged as a societal consensus or a compromise among the political parties after a series of negotiations. On the contrary, the contemporary regulatory-rights pathways are imposed from the top utilising the respect and commitment to monarchy. Moroccan women, especially from rural places and with lower education, continue to be excluded and are exposed to patriarchal oppression. However, it should be noted that the outcome is one of dialogue. There is a relative achievement of attunement between women and the political system. The dialogue between secular and Islamic feminists continue as one way or another women's vested rights were taken under constitutional guarantee at a certain level.

Case	Context	Belonging	Outcome
Secular and Islamic feminisms in Morocco	Exclusionary (until 2004) / Uneasy (post-2004)	Resentful / Persistent / Precarious	Dialogue

Case Overview

The history of Moroccan feminism dates back to the anti-colonial struggle of the 1930s. The movement's key leaders, modernist or traditionalist, united in the argument that women's education level should be increased and integrated to social life in the aspired post-colonial society. However, women have been excluded from multiple aspects of the socio-economic order as the regulatory-rights pathway remained strictly patriarchal from the 1950s until 2004. Persistent feminist struggle, secular and Islamic, finally forced the politicians to attempt to change the context and aim at a sort of attunement to integrate women in the political system, society and politics. This report focuses on the unique experience of Moroccan secular and Islamic feminist movements to change the country's context towards a more inclusive one, push the regulatory-rights pathways as their modes of belonging changed in due course and achieve a certain level of attunement. The report begins with the method and case justification, continues with a historical analysis of the changes in the Moroccan context, accompanying changes in the modes of belonging and discusses the outcome of the regulatory-rights pathways.

Method and Case Justification

This work package seeks to analyse how human rights and protections combined across socio-political contexts might result in different pathways. In certain situations, where integrative institutional, legal, and policy frameworks are put into effect, the outcome might be transformative and promote freedom of expression and democratic consolidation. In the opposite situations, where regulations expand the socio-political space only for selected groups, mutual resentment, distrust and fear prevail, limiting the outcome to continued rejection. In most situations, the pathways lead to outcomes in between rejection and transformative. There might be partial attunement in these situations.

Secular and Islamic feminisms and their struggle for gender equality in Morocco is selected as a case as it illustrates how a top-down legal reform can improve an exclusionary context to one of uneasy modes of attunement, but prevent heightened sense of belonging and fail short of achieving a transformative outcome. The report will first focus on the transformation of the exclusionary context, subsequent transformation of the sense of belonging and the outcome. Finally, it will identify the outcomes of the post-2004 regulatory-rights pathway for women in Morocco.

Context, Belonging, Outcomes

The **context** in the Muslim-majority countries in the Middle East and North Africa for women has been exclusionary in general. Religion has a strong presence in the socio-economic order, and traditional and patriarchal interpretations of Islam dominate the political and social scene. Gender inequality and gender-based violence levels are above the rates in European countries. However, the region displays a greater variety than expected. The course of the anti-colonial struggle and the making of the new regimes mainly explain the differences in gender relations and the level of exclusion in the country's context.

Morocco forms an outstanding case considering the historical legacy of the anti-colonial struggle and regulatory-rights pathways regarding gender equality. Along with Tunisia and Turkey, Morocco has been one of the few countries in the MENA region where secular policies played and/ or play a significant role in the making of the new regime and the independence struggle against invasion or colonialism opened an avenue for progressive ideas regarding gender relations. However, in Tunisia and Turkey, state-feminism played an important role, and this, in turn, elevated the position of women higher up among the MENA countries. In Morocco, there is no state-feminism policy. The feminist movement and the progressive political actors struggled for decades to force the regime to make legal reforms on gender relations and equality. The reform, in turn, did not come from the parliament but rather as a top-down arrangement by the monarchy. The country is also different from many other countries in the region in that there is a significant Islamic feminist movement along with secular feminist activism.

The Moroccan context is shaped by its colonial past. The country came under European influence in the late 19th century and was officially designated as a French protectorate in 1912. Developments of the Long Nineteenth Century, particularly fin de siècle, which changed the course of history in the Muslim-majority countries also affected Morocco. The general controversy on how to reverse the decline of the Muslim-majority countries in the face of the rising West shaped the political space in Morocco along with the rest of the region. The question over how to reverse the tide led to the emergence of a conflict between the traditionalists and modernists. The colonial experience added another layer to the rift between traditionalists and modernists in the Moroccan case. The independence movement was united in their goal of removing the pillars of colonial rule from the political system and the society, yet divided in what should replace in its place. The departure point for both sides was the Westernist reforms initiated during the French rule, which imposed Western lifestyle, norms and values while the traditional and religious cultural tenets continued to exist. The traditionalists saw the sources of development in religion and local culture, while modernists favoured Western-style reforms. The secular-nationalist side

offered a modern collective identity for the post-colonial Moroccan society. The Islamists wanted the new Moroccan society to be built along the lines of religion and local socio-cultural legacy.

Issues related to gender roles and relations have been at the centre of the traditionalist-modernist divide since the late 19th century. Family law and women's rights formed clear fault lines between the two sides. The independence struggle of the 1930s bore the beginnings of Moroccan feminism. The movement's key leaders, modernist and traditionalist, agreed that women's education level should be increased and they should be integrated into social life for the future of the independence struggle (Akalay 2022). One of the main leaders of the independence movement, Mohamed Bin Al Hassan Ouazzani, is still considered among the pioneers of progressive ideas on women's rights (Ennaji 2016). Allal al-Fassi, who was considered to be more conservative than Ouazzani, also supported women's education and integration (Ennaji 2016). The anti-colonial struggle blurred the lines and boundaries on many issues including gender relations. Similar to Egypt and Turkey at the turn of the century, improving the conditions of women was seen as part of progress for the independent post-colonial society. It should also be emphasised that blurring of attitudes towards gender was also related to the role women played in the struggle. Women revolutionaries, especially from upper-middle-class families, joined the independence movement often in the form of accompanying male family members. The comradeship paved the way for relaxation of gender roles and increased support among men for women's education. The feminist movement gained an organisational character as early as the 1940s. Malika Al-Fassi formed the first feminist organisation, "Akhawat Al-Safa" (Sisters of Purity). Initial demands were mostly social; but, the feminist organisations also called for economic independence and the abolition of Islamic laws restricting women's rights. However, the context remained disappointingly exclusionary after the independence in 1954 (Baker 1998, 10). The 1957 Personal Status Code was patriarchal, confirming the gender roles and maintaining polygamy. The mode of **belonging** in the immediate aftermath of the independence, hence, can be referred as one of resentful belonging. As the oral narratives Baker gently conveys from the time of the anti-colonial struggle, "These were women who had worked with their husbands during the resistance, and then, suddenly, after independence, found themselves repudiated" (Baker 1998, 10). It can be argued that women revolutionaries, mostly of urban origin, felt resentment towards their male comrades and the new regime they fought for to be established. The regulatory-rights pathway prevented the inclusion of women in the new socio-political system.

Despite the disillusionment with the new regime, feminists continued to struggle for more rights by joining the leftist organisations. This in turn changed the class character of the feminist movement. Women from the lower classes joined the feminists from the upper and upper-middle class families. Unfortunately, the leftist parties failed to provide an inclusionary context for feminists. They relegated women's emancipation to social and economic improvements and did not prioritise women's issues. These led the feminists to form NGOs to continue feminist activism. Two major associations emerged in mid-1980s were "L'Association Démocratique des Femmes Marocaines" (Democratic Association of Moroccan Women) and "L'Union de L'Action Feminine" (Union of Feminine Action). In this period, we see the early signs of transformation of women's mode of belonging from resentment to persistent belonging. Women continued to be in a marginal position within the polity for decades, however, continuation of the feminist struggle from resistance to leftist parties to the formation of autonomous NGOs indicate that they considered attunement as a relative achievement.

As the feminist movement gradually gained its autonomy, demands became more drastic and comprehensive, including calls for the change of the personal status code (Mudawwana) in the 1990s. Socialist coalition's coming to power in 1998 increased expectations in this regard. The government introduced the "National Plan of Action for Integrating Women into Development" (NPA), a reform plan to increase the marriage age, abolish male guardianship, and change divorce regulations. Three issues characterised the context in the 1990s. First, the persistent feminist struggle and its reverberations in the leftist circles gave its first considerable **outcomes**. This was the first time, gender equality became pronounced in the parliament in an explicit and concrete way. Second, tensions among the traditionalists and modernists exacerbated and manifested through the gender relations controversy. It should be remembered that the gradual rise of political Islam since the late 1970s in Morocco reached a new level in the 1990s. The NPA created an uproar at the societal level. Those in support of the realisation of the reform plan into an actual package and those harshly critical of the plan as a threat to the traditional cultural and religious values organised mass protests in 2000. Third, the controversy over the NPA marked the deepness of division between secular and Islamic feminisms. In this sense, the context in the 1990s, remained exclusionary for both secular and Islamic feminists but also clarified the need to change the regulatory-rights pathways in one way or another. The mode of resentful/persistent belonging increasingly encompassed the feelings of secular and Islamic feminists vis-à-vis each other.

Islamic feminism emerged in late 1980s in the Muslim majority countries as a response to the Islamist politics threatening the hard-won rights and social status of women, to the secular feminism relegating Muslimness to one of the many identities of women and to the colonial impression of Muslim women as passive subjects. Islamists' "call for retreat to home" created concern among progressive Muslim women across the MENA region (Badran 2005, 9). They sought a way to pursue the feminist agenda remaining within Islam. Secular feminists in general argued that there were elements in Islam which were incompatible with feminism. While secular feminists argued for gender equality, Islamic feminists advocated gender equity as they interpreted the roles of women and men as complementary and attributed specific roles and responsibilities in the family (Sadiqi 2014, 150). They also saw the discourse of secular feminism as an extension of the colonial perception

of Muslim women as subjects pacified by both patriarchy and religion. Moroccan Islamic feminism displayed similar tenets. It was framed as a struggle against secular feminism (that the feminist agenda should not contradict Islam), political Islam (that fundamentalists should be prevented from eliminating the legitimacy of gender equality in the name of religion) and the Eurocentric attitude which relegated Muslim women to docile and passive members of the society. Moroccan Islamic feminism emerged during the same period that the secular feminist groups began to break from the leftist parties. Islamic feminism, just like secular feminism, originated from the nationalist movement influenced by the ideas of Al Fassi. According to Al Fassi, although the gender inequalities were justified on religious grounds, they were rather practices preceding Islam and conveniently interpreted in a patriarchal way (Akalay 2022, 18). Fatima Mersinssi, Asmaa Lamrabet and Nadia Yassine in different periods became leading figures in the movement. They tried to deconstruct the patriarchal interpretations of the Quran and the hadith (prophet's sayings) and re-interpret in a way to empower women in society.

Hence, until 2004, the **context** remained exclusionary for all women, secular or Islamic despite the vigorous debates. The regulatory-rights framework remained limited on achieving gender equality. The 1993 reforms were very limited, and considered highly superficial. In 1999, the minister of Childhood and Family Issues of the Socialist front government drafted a proposal (NAP), but was defeated as the government did not support the draft bill as a whole. Along with the objections from the conservative parties, the government's own minister of Islamic Affairs stood against the NAP.

The critical turn in the regulatory-rights framework, which also altered the strictly exclusionary context for women, came from the monarchy. The Moroccan monarchy was established after independence and continues to rule to this day. As a collective political actor, monarchy has placed itself above politics and assumed the role of an arbiter in the Moroccan political system from the beginning. This role has worked both ways: making reforms possible and exploiting the fault lines to further consolidate the royal power across the political system (Joffé 2009, 152). King Mohammed VI, who still rules the country as of 2023, came to power in 1999 and presented a public image compatible with the decades-long monarchical strategy: open to reform, committed to Islam and above daily political conflicts. He played the role of neutral arbiter in 2000, when the 1999 reform proposal led to rallies by both modernists in support and traditionalists against. As the demonstrations quelled, he met with women with diverse political tendencies and formed a royal commission for the Mudawwana reform. In the period towards the legalisation of the reform, the monarchy took a series of steps. The royal harem was closed and in 2002, a 10% gender quota was introduced along with female appointments to some political and bureaucratic positions. Hence, the monarchy signalled its modern position. King Mohammed VI made a speech in 2003 which emphasised that Moroccan society needed a new and modern civil code, and the new law had its justification in Islam, compatible with jurisprudence and ijtihad (Harrak 2009). As a result, the new Mudawwana was able to take effect in 2004. Making of the reform is important and worth analysis in several aspects. It must be concurred that the reform was an outcome of the secular and Islamic feminist activists since the days of the anti-colonial resistance. Therefore, it has a bottom-up dimension. The persistent sense of belonging among the secular and Islamic feminist women formed a catalysis which forced the regulatory-rights pathways to change. However, it was not the parliament, where such a reform would have been initiated in a republic, but the monarchy which made the reform possible. In other words, monarchy's self-assumed, above-the-parties role depoliticized the legal reform and made it possible to initiate a new regulatory-rights framework which would be accepted by opposing sides. The role of monarchy in changing the context from an exclusionary mode is astounding. However, it is for the same reason that an emancipatory context was not established. If the family code was changed as a result of negotiation and compromise among the opposing political and social actors, the outcome could also be transformative.

The new personal status code was progressive in that it eliminated male guardianship in marriage and divorce, recognized the legitimacy of children born out of marriage, and raised the marriage age to 18. It recognized the international agreements particularly regarding the children's rights and women's custody entitlement (Harrak 2009). However, it also remained limited as polygamy was not entirely abolished, and it did not grant full equality to women and men in the family and other matters of civil law (Akalay 2021, 27). The revised Nationality Law of 2008 improved gender equality in citizenship. In the same year, Morocco lifted its reservations on CEDAW, and then codified it in the constitutional reform of 2011. This also did not lead to a mode of heightened belonging as Islamic feminists perceived these changes as contradictory to Islam's focus on family rather than individuals (Sadiqi 2014, 150). During the "Moroccan Spring", Islamic feminists continued to distance themselves from secular feminists (Haitami 2016, 79).

Secular or Islamic, Moroccan women's current mode of **belonging** can best be described as precarious as the context remains uneasy. Feminists have collaborated to change the personal status code; however, it is open to whether the reform would have been realised and whether collaboration would have lasted if the monarchy had not depoliticized the reform debates. With the same coin, if the reform proposal originated from within the parliament directly, would it have been possible to overcome divergences and pass the bill? In such a context, where the scales are tilted by the monarchy and parliamentary power oscillates between the Islamists and secular liberals since 2011, a precarious sense of belonging prevails in fear of losing their hard-won gains. There are still obstacles in front of women's emancipation and the regulatory-rights framework assuming a transformative **outcome**. The gains for women are mostly limited to urban women and the ethnic Berber dimension remains absent (Sadiqi 2014, 151). Women with low education levels, and living in patriarchal communities continue to be subject to gender-based violence at a high level, and illiteracy among women are significantly higher

than men. Female labour participation rate remains low and gender-based prejudices continue to hurdle women's promotion at work (Ennaji 2016, 5).

Synthesis of Rights/Regulation Pathway

Regulatory-rights pathways in contemporary Moroccan politics carry the marks of its colonial past. The country became a French mandate in 1912 and a series of legal changes followed suit especially in the 1930s. These legal reforms maintained a distinctly Western perspective. The result was a legal framework and social context culminating secular-modern characteristics alongside the traditional and religious cultural tenets. The emerging anti-colonial resistance was similarly hybrid and dualistic. Traditionalists viewed a post-colonial society that would be "authentically Moroccan" referring to the centuries old cultural and religious traditions. Secular-nationalists on the other hand aspired for modernization of Moroccan values, establishing modern political and economic institutions. The resistance to colonial rule created an ambiguous context for the position and place of women in society and politics. Participation of women was partly traditional: as comrades of their husbands, fathers and brothers. They worked in the same cells, and shared responsibilities in a more conventional way. It was also revolutionary and promising as relations between men and women relaxed; women's presence in an environment where unrelated men also convened became normalised. As the actual independence was achieved in the mid-1950s, it became clear that the context remained largely exclusionary. The personal status code of 1957 did not grant any form of gender equality, continuing the religious civil code retaining polygamy and male guardianship. In such a context, women's mode of belonging can best be described as resentful.

The Moroccan context began to transform in the subsequent decades particularly in the 1990s. Feminist movement, which remained largely secular and upper-middle class until late 1980s, penetrated into leftist political parties and when disillusioned with the continued patriarchal attitude in these parties, formed non-governmental organisations. In other words, it was first the change in the mode of belonging from one of resentfulness to persistence that started to change the context from strictly exclusionary to an uneasy mode. On the secular-nationalist and leftist side, an increasing awareness regarding the persistence of feminist struggle emerged. This eventually led to the Socialist government of 1998 to propose a reform plan although it was not realised into a concrete change in the regulatory-rights pathways. On the traditionalist side, it led to a rupture within the Islamist movement. The early traditionalism had given way to an Islamist current which placed religion at the core of the values and norms. Progressives among the conservative women responded to the traditional and patriarchal interpretation of Islam by reinterpreting feminist demands through the lens of religion. The feminist movement was divided on many levels, but also united for the need to secure women's hard-won gains by calling for a dramatic change in the regulatory-rights framework.

2000s marked drastic changes in the Moroccan context. On the one hand, there was a strong current demand for the improvement of women's place and status in the society. On the other hand, parliament and political parties diverged on gender issues. Monarchy has been traditionally overseeing the political space as a tutelary actor despite the existence of multiparty elections. Rising tensions gave a unique opportunity to the monarchy in this context. King Mohammed VI formed a royal commission made up of scholars, jurists and experts from diverse backgrounds; played the role of arbiter and introduced a new personal status code which garnered support from both seculars and Islamists, circumvented the controversies in the parliament and reaffirmed the position of the monarchy in 2004. 2004 Mudawwana and the later legal changes codified into constitution amended in fact improved the condition of women. However, the new regulatory-rights framework reflects the preference of the monarchy rather than the social actors. Hence, the Moroccan case became an uneasy context, in which the mode of belonging remains precarious for women.

Conclusion

As given by the monarchy, the rights can be taken by the monarchy; and, each new policy decision fuels the distrust and fear among the secular and Islamic women. The outcome could have been transformative if it emerged as a societal consensus or a compromise among the political parties after a series of negotiations. On the contrary, the contemporary regulatory-rights pathways are imposed from the top utilising the respect and commitment to monarchy. Moroccan women, especially from rural places and with lower education, continue to be excluded and are exposed to patriarchal oppression. However, it should be noted that the outcome is one of dialogue. There is a relative achievement of attunement between women and the political system. The dialogue between secular and Islamic feminists continue as one way or another woman's vested rights were taken under constitutional guarantee at a certain level.

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CASE #5

Breaking the Silence: Combating Femicide and Gender-Based Violence in Cyprus

Prism case analysis

This case delves into femicide and gender-based violence with a focus on Cyprus, one of the only two countries, alongside Malta, to officially recognize femicide as a distinct crime. It highlights the challenges in addressing femicide due to the lack of uniform definitions and comprehensive data, exacerbated by Cyprus's patriarchal society and media narratives that often blame victims. Despite these obstacles, Cyprus's enactment of a dedicated femicide law in 2022 represents a significant step forward in acknowledging and combating this human rights violation, underscoring the urgent need for EU-wide legislative efforts to protect women's rights and safety. Cyprus, marked by historical gender disparities dating back to the British colonial era, has made progress since its establishment as a Republic in 1960, including granting women voting rights. However, challenges persisted amidst ethnic nationalism and militarism on the island. Despite progress in gender equality, barriers remain in political representation. Media coverage of femicides reflects biases, creating an uneasy context for women. The 2019 Metaxas case highlighted systemic issues rooted in racism, nationalism, and patriarchy, with migrant women often overlooked in investigations. Although a femicide-specific law was passed, societal reactions revealed uncertainties in women's legal pathways, leaving their belonging precarious. Cyprus lacks comprehensive policies to prevent femicide, exposing gaps in addressing gender-based violence. While ongoing efforts show progress, challenges persist due to the complex interaction of regulatory changes, societal attitudes, and institutional responses, concluding with a dialogue-driven outcome.

Case	Context	Belonging	Outcome
Breaking the Silence: Combating Femicide and Gender-Based Violence in Cyprus	Uneasy	Precarious	Dialogue

Case Overview

In April 2019, seven female bodies were discovered in Cyprus, all linked to a single perpetrator, resulting in a significant legal case[1]. Subsequently, a gang rape case led to the female victim's conviction for "false allegations," later overturned by the Supreme Court due to an unfair trial[2]. These cases drew attention not only for their severity but also for revealing systemic flaws in the investigation and judicial process, especially given the victims were foreign nationals. Criticisms highlighted failures of Cypriot authorities to protect women from sexual and lethal violence[3]. This study will explore sexual and gender-based violence (SGBV), focusing on femicide, particularly in the Republic of Cyprus (RoC), one of the few EU states recognising femicide as a distinct crime.

Femicide and gender-based violence (henceforth: GBV) represent worldwide issues that have not received consistent and

[1] Demetriou (2020)

[2] The Times of Israel (2022)

[3] Demetriou (2020)

adequate attention from countries globally (Corradi et al., 2016). The specific crime of femicide constitutes a breach of fundamental human rights, encompassing the rights to life, personal freedom, and individual security, as well as an obstacle to social and economic development. This term pertains to the deliberate act of causing the death of a female individual, whether a woman or a girl, due to her gender (Cecchi et al., 2022; WHO, 2012), making it the most extreme form of GBV. The United Nations (UN) Commission on Human Rights, as per Resolution 2003/45, defines femicide as a systematic manifestation of violence against women driven by patriarchal ideology, aiming to subjugate and erode their identity, often heading to fatal outcomes (UN Commission on Human Rights, 2003).

A scarcity of data and research articles on femicide persists due to inconsistent definitions, hindering reliable statistical generation. The absence of consistent, cross-European data results in the EU not having a violence against women score. Consequently, femicide is overlooked, leading to a perception that it does not merit dedicated legal measures. Underreporting may indicate legislative gaps requiring attention (Cecchi et al., 2022; EIGE, 2023b).

According to official reports, in 2021, 720 women lost their lives due to fatal violence inflicted by a close partner, family member, or relative across 17 EU member states[4] (EIGE, 2023b). Cyprus is home to around 1.244 million people (World Bank Open Data, 2022). It has been previously reported that from 2010 to 2016, there were 40 instances of femicides in Cyprus, with 70% of these cases being committed by either current or former intimate partners, totaling 28 cases (EIGE, 2021a; Kouta, Kofou & Zorba, 2019).

Gender-related killings, highlighted by the UN General Assembly (UNGA) in 2016, epitomise the extreme end of a violence continuum (Kouta, Kofou & Zorba, 2019). Described by the UN Special Rapporteur on Violence Against Women as the most brutal form of GBV[5] (Kouta, Kofou & Zorba, 2019), femicide is distinct from male homicide, often involving partners or former partners and sustained abuse, threats, and sexual violence (Kouta, Kofou & Zorba, 2019; WHO, 2012). Femicide also extends harm to victims' families and bystanders (Dobash & Dobash, 2012; Kouta, Kofou & Zorba, 2019; Lewandowski et al., 2004).

Method and Case Justification

GBV, often referred to as a "silent epidemic," has pervasive impact on women throughout Europe, with EU statistics indicating that one in three women aged 15 and above has encountered physical or sexual violence (Khatsenkova, 2023). However, as previously stated, the EU lacks an assigned score in the domain of violence against women due to the absence of consistent, cross-European data (EIGE, 2023b). Past research[6] reveals significant increases in femicides since 2019 in Greece, Slovenia, Germany, and Italy (Khatsenkova, 2023). Notably, only Cyprus and Malta in the EU have officially recognised femicide as a distinct crime. For this reason, this case study chooses Cyprus as its focal point to delve into existing data sourced from both scholarly and grey literature. The analysis utilises the RRP framework, starting with an overview of women's status in Cyprus, advancements in gender equality, and the recent femicide law enactment. It examines the handling of femicides pre-law, emphasising the 2019 "Mitsero murders." Next, reactions post-law and media coverage are discussed. The subsequent section assesses outcomes post-law. Synthesis within the RRP follows, concluding with policy recommendations to combat GBV.

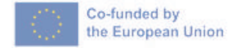
Context, Belonging, Outcome

From a historical perspective, Cyprus has struggled with gender inequalities dating back to the British colonial era, marked by male dominance and the subjugation of women (Hadjipavlou & Mertan, 2010). Women were systematically excluded from opportunities, with a significant portion being illiterate in the early 20th century (Hadjipavlou & Mertan, 2010). They were often considered instruments for men's satisfaction and were taught to prioritise marriage (Hadjipavlou & Mertan, 2010). Despite gaining voting rights in 1960, Cypriot women faced challenges amidst ethnic nationalism and militarism (Hadjipavlou & Mertan, 2010). Progress since then has been notable, particularly in education and employment, but patriarchal dominance persisted, sidelining women's voices on societal issues (Hadjipavlou & Mertan, 2010). Cyprus' Gender

[4] Eurostat (2021)

[5] (UNGA, 2016:10)

[6] The research was conducted by the European Data Journalism Network and the Mediterranean Institute for Investigative Reporting.



Equality Index score (60.7/100) ranks it 21st among EU countries, with notable improvements in power and time domains since 2010 (EIGE, 2023a). However, men still largely control politics, maintaining a landscape centred on male, heterosexual, and cisgender perspective (Kamenou, 2019). Despite a recent 3.4-point increase in the overall Index, Cyprus lags behind the EU average, albeit showing consistent progress relative to other member states (EIGE, 2023a).

A qualitative analysis was conducted to examine how femicides were portrayed in the Cypriot media from 2010 to 2017. It was found that Cypriot newspapers often highlighted the female victim's behaviour and desires as contributing factors to femicide, such as expressing a wish for divorce or a break-up (Kouta, Kofou & Zorba, 2019). The media also frequently emphasised the role of gun possession as a cause of femicide. There were numerous reports on a law granting men the right to possess the G3 gun, making it easier for them to access firearms and potentially harm their spouses. Also, the study revealed the use of sexist language by the media, blaming women for the incidents and providing excuses for men who committed femicide (Kouta, Kofou & Zorba, 2019). These portrayals in the media attributed praise to men, positioning them as fulfilling prescribed gender roles and societal expectations in a masculine society (Kouta, Kofou & Zorba, 2019). It is indisputable that the media played and still plays a crucial role in shaping the perceptions and social constructs related to crimes such as domestic violence or femicide, particularly for members of the public which have limited to no direct experience with such forms of violence (Kouta, Kofou & Zorba, 2019; Pantaleo, 2010). Moreover, it was observed that the Cypriot media characterised women based on their connections to men, overlooking women as autonomous individuals. This portrayal of femicide cases in the Cypriot media persists in highlighting patriarchal inclinations, thereby neglecting the crucial context surrounding femicide (Kouta, Kofou & Zorba, 2019). Importantly, Cyprus is not assigned a score in the Gender Equality Index's violence category due to a shortage of comparable data at the EU level (EIGE, 2023c). The country signed the Istanbul Convention in June 2015 and formally ratified it in November 2017, with it becoming effective in March 2018 (EIGE, 2023c). In 2018, Cyprus recorded a female homicide rate of 1.36 per 100.000 residents, ranking it as the fourth highest rate among the 24 EU member states with available data, including the United Kingdom (EIGE, 2021a). Based on the data at hand, there were nine cases of femicide in 2019, followed by five in 2020, another five in 2021, and two in 2022 (AlphaNews Live, 2023; House of Representatives Cyprus, 2022). To the best of the authors' knowledge, there is currently just one organisation, the Association for the Prevention and Handling of Violence in the Family[7] (SPAVO), which is dedicated to preventing domestic violence, offering direct help to individuals – especially women – affected by domestic violence, and offering shelters for survivors of such abuse.

In the year 2022, Cyprus passed a legislative measure aimed at formally recognising and addressing the specific offence of femicide, making it the inaugural European jurisdiction to do so (Hadjichrysanthou, 2023). This legal development emerged subsequent to the 2021 amendment to the Violence against Women Law (Cyprus Bar Association, 2022) and prescribes a life imprisonment sentence as a consequence for the offence of femicide. The enactment of the Violence against Women Law in 2021 expanded the legal framework to encompass all manifestations of GBV directed at women, aligning with the stipulations set forth in the Istanbul Convention (Schröttle et al., 2021). With the exception of Cyprus, which has enacted a dedicated law acknowledging femicide, and Malta, which, whilst not introducing femicide as a distinct crime, has incorporated a motive related to homicide (Calleja, 2022), the European Institute for Gender Equality (EIGE) has reported that no other EU state has a specific legal definition for femicide (Cecchi et al., 2022; EIGE, 2021b). However, in some countries, they do acknowledge and penalise motives related to gender in cases of women's killings, such as those driven by hatred based on her gender (Cecchi et al., 2022). For instance, Spain was the first European country to address GBV with the Organic Law 1/2004 (28th December 2004) titled "Protective Measures against Gender-Based Violence"[8] (Cecchi et al., 2022). Other European countries, such as Germany[9], France[10] and Italy[11], have enacted laws addressing violence against women, albeit without specific reference to their murder (Cecchi et al., 2022). Importantly, Croatia has recently introduced a new bill to include femicide in the country's criminal code (Carbonaro, 2023). On September 16, 2021, the European Parliament approved a resolution on identifying GBV as a new area of crime listed in Article 83(1) TFEU. This resolution officially categorised GBV as a new form of crime within the offences outlined in Article 83(1) TFEU. It included femicide as one of the offences falling under this category, along with other crimes that require collective efforts to combat, such as human trafficking, drug and arms-related offences, cybercrime, and terrorism (Cecchi et al., 2022). Importantly, the comprehensive resolution, particularly in Article 18, underscored that *"…substantial differences exist in the legal definitions and treatment of gender-based violence among various member states."* (Cecchi et al., 2022, pp. 3). It also emphasised that these discrepancies considerably hinder the Union's legislative efforts in tackling GBV. (European Parliament, 2021; Cecchi et al., 2022).

Considering the points mentioned above, when viewed through the lens of the RRP, this situation presents an **uneasy context** in which various groups such as advocates for women's rights and those who oppose them or fail to acknowledge

[7] https://domviolence.org.cy/en/

[8] https://rb.gy/wxpwu9

[9] https://rb.gy/snt92p, https://rb.gy/b2vmb5

[10] https://rb.gy/enouln

[11] https://rb.gy/hnpo9y

women's disadvantaged status, co-exist alongside the potential for either a peaceful coexistence or further conflicts.

In many countries, police and health data collection systems often lack crucial information, such as details on the victim-perpetrator relationship and homicide motives (Kouta, Kofou & Zorba, 2019). Institutional providers often apply different criteria, leading to insufficient information, a situation also observed in Cyprus (Kouta, Kofou & Zorba, 2019; Kouta et al., 2017). Prior to the passing of the law in 2022, femicides lacked a legal definition in Cyprus. The killing of a woman or a girl by a family member was acknowledged by law, but it was specifically tied to family violence, which was not gender-specific (Kouta, Kofou & Zorba, 2019). The "Violence in the Family Law" within section 3 (Prevention and Protection of Victims) Laws 119(I)/2000 and 212(I)/2004 encompassed acts, omissions, or behaviours causing physical, sexual, or mental harm to any family member. This included violence used to coerce sexual intercourse without the victim's consent or to restrict their freedom (Kouta et al., 2018; Kouta, Kofou & Zorba, 2019). Consequently, when a woman or girl was murdered by a family member, the law categorised it as "violence in the family" without distinguishing between female and male perpetrators. Homicides stemming from GBV outside the family, such as by a boyfriend or ex-husband, were not considered acts of violence against women or GBV. Before the enactment of the law, data analysis in Cyprus indicated that most of these cases could be in fact categorised as GBV and instances of femicide (Kouta et al., 2018).

The 2019 case of a Greek-Cypriot army officer Nikos Metaxas found guilty of murdering five women of foreign origin and two of their children, whose disappearances were initially disregarded by the police, deeply shook the Cypriot society. All were foreign nationals: four were Filipina (including a six-year-old), two Romanian (including an eight-year-old) and one Nepalese (Demetriou, 2020). The bodies were disposed of in different locations in the wider area around a mine, such as a refuse pond, an army shooting ground, and a lake (Demetriou, 2020). Throughout this period, news coverage remained constant, covering every facet of the investigation, from the specific equipment that was used to the timing of dives in the hazardous water and the scheduling of police statements (Demetriou, 2020). A divorced father of two, Metaxas confessed to the murder of these women who worked as domestic workers in local households, as well as their daughters. Metaxas met the majority of these women via online dating platforms in a string of murders that remained undetected for an extended period. The authorities' insufficient efforts in investigating the murders, even though five women and two girls were reported missing, incited anger in a society unaccustomed to serial killings and severe crimes. In response to the revelations of the extent of the crimes, the island's Police Chief was dismissed from the position, and the Justice Minister resigned. Then President Nicos Anastasiades, recognising the mishandling of the cases, criticised the police for their "neglect of duty." Migrant workers and civil rights organisations organised protest vigils outside the presidential palace and in various towns throughout the island (Demetriou, 2020; Smith, 2019). According to Demetriou (2020), despite the numerous public statements of shock, dismay, and calls for investigations, justice and accountability for previous investigative failures, there was no public apology to the community of female migrant workers. The President, Chief of Police, and Minister of Justice issued apologies, leading to the resignations of the latter two. However, those apologies were directed solely towards the families of the victims, with strong assurances of repatriating the remains using public funds (Demetriou, 2020). As reported by mainstream media in Cyprus, fearful migrant women workers had left their workplaces following the murders. The President's statements warned them that leaving their jobs meant neglecting their responsibilities (Demetriou, 2020; OmegaLive, 2019). Furthermore, in another instance criticised for its racist implications, the then President highlighted that the apologies held significance "despite the victims being foreigners" (Demetriou, 2020; Politis News, 2019). Demetriou (2020) argued that the failures in this terrible case of femicide incidents were ingrained within systemic and institutional flaws, reflecting racist, nationalist, and patriarchal ideologies which are deeply rooted in state structures, a viewpoint which was echoed by several women's organisations on the island.

In this specific case, these women represented a dual minority identity as they were concurrently members of two marginalised communities (i.e., migrant women). They experienced institutional neglect in the investigation of their murders due to their double minority status. "Intersectionality," termed by Kimberlé Crenshaw in 1989, highlights how various aspects of minority status combine to produce complex outcomes in specific situations (Brah & Phoenix, 2004; Figgou, Bozatzis & Kadianaki, 2023). Similarly, as observed in this case, and drawing upon quantitative data that has been gathered (Pavlou & Shakou, 2022), femicides in Cyprus typically involve male perpetrators and occur within the context of intimate partner or domestic violence. Most victims are non-Cypriot nationals with a migrant background, whilst the majority of perpetrators are Cypriot nationals. Most femicide cases result in convictions of murders (Pavlou & Shakou, 2022).

The initial presentation of the proposal of the law was made by Ms. Annita Demetriou, who currently serves as the President of the Parliament. She emphasised that femicide is frequently linked, in the majority of instances, to domestic and sexual violence (House of Representatives Cyprus, 2022). The proposal received widespread support from the majority of the parliament, with 38 votes in favour, except for four who opposed it (Euronews, 2022). Members of Parliament (MPs) of various political parties had differing reactions to the new law. MPs of the Conservative Party (DISY), the Democratic Party (DIKO), the Left-wing Party (AKEL), and the Green Party expressed support for the law. On the contrary, an MP from the Far-right Party (ELAM) and another independent MP (who is a former ELAM party member) refrained from publicly

endorsing the new law, as reported by Euronews in 2022. SPAVO[12] praised the House's resolution to establish femicide as a separate offence. At the same time, SPAVO commended House President Ms. Demetriou for her leadership and the deputies who supported the initiative, along with expressing appreciation to all contributing organisations (Philenews, 2022).

According to mainstream media reports, the new law that recognises the crime of femicide had caused intense reactions between those who supported it and those who did not adhere to political correctness (Euronews, 2022; Thoma, 2022). Also, it was reported that the legal amendment implies that cases will be scrutinised from the perspective of homicide, and if proven to be such, the penalty will be augmented, contingent upon the crime falling under the purview of GBV (i.e., committed with misogynistic intent by the perpetrator) (Thoma, 2022). On one hand, this new provision was perceived to carry significant symbolic importance by increasing awareness and alerting society to the reality that GBV is a social phenomenon that cannot be tolerated any longer. On the other hand, it was argued that the amendment will make it harder for authorities to prove the offence rather than facilitating it, emphasising that femicide should be proven and recorded as such without needing to first establish homicide (Thoma, 2022). Hence, the prevention of femicide in Cyprus is still in its early stages. One can argue that this situation leads to a **precarious belonging** within the regulatory-rights pathway for women. They have managed to coexist but with a lingering suspicion and fear that their position may be contested.

According to the new law (Cyprus Bar Association, 2022), when determining and applying penalties for femicide, the court takes into account a range of aggravating factors. These factors encompass scenarios where the victim's death results from violence inflicted by an intimate partner, acts of torture or violence driven by misogyny, instances of domestic violence, acts of violence carried out in the name of preserving honour, violence motivated by religious beliefs, violence based on sexual orientation or gender identity, the commission of female genital mutilation (FGM), and the use of violence with the intent or within the context of sexual exploitation, human trafficking, drug trafficking, or organised crime. Furthermore, the court also considers cases where violence was employed to facilitate unlawful sexual intercourse and instances of deliberate violence against women occurring within the context of armed conflicts (Cyprus Bar Association, 2022). In general, the current legal framework in Cyprus has been characterised as "comprehensive" by women's rights activists (Pavlou & Shakou, 2022).

Despite this legal advancement, according to grey literature[13] (Pavlou & Shakou, 2022), there are currently no policies in place specifically on preventing femicide in Cyprus. Femicide is not mentioned in the existing and previous National Action Plans for the Prevention of Violence in the Family, nor in the current National Action Plan for Equality between men and women 2019-2023 (Pavlou & Shakou, 2022). A coordinating entity was formed in March 2022 with the task of formulating a national strategy for preventing and addressing violence against women and domestic violence, in accordance with the stipulations of the abovementioned law (Pavlou & Shakou, 2022). Additionally, there are several gaps and challenges in addressing violence against women and femicides in Cyprus. For instance, there are inadequate data collection processes on femicide leading to a failure to consider the gender dimensions and the link with intimate partner violence. Also, authorities have little involvement or support prior to femicides, with only a small number of cases known to police or support systems and few measures are taken to protect victims (Pavlou & Shakou, 2022). Importantly and as previously mentioned, media tend to often romanticise and sensationalise femicide cases, portraying them as isolated incidents and using victim-blaming language and sexist stereotypes (Pavlou & Shakou, 2022). Consequently, gender inequality remains a primary cause of discrimination and violence against women.

A recent news article reported that the RoC UN Ambassador, Andreas Hadjichrysanthou, mentioned in his statement at the 78th session of the UN General Assembly that Cyprus has prioritised integrating gender considerations into all its policies and endeavours. The aim is to establish a political, economic, and social framework that is responsive to gender issues and ensures inclusivity for all (Kathimerini, 2023). Furthermore, it was reported that the Office of the Commissioner of Gender Equality, which is currently in the process of becoming a permanent entity within the government of the RoC, is currently developing the new Gender Equality Strategy for the years 2024-2026 (Kathimerini, 2023). In the same article, it was also noted that the Cyprus UN Ambassador emphasised that as part of this effort, gender focal points have been designated in all pertinent Ministries and Authorities, with active involvement of civil society actors in shaping the forthcoming national strategy. He has also highlighted the RoC places utmost importance on the prevention and eradication of all manifestations of violence against women and girls (Kathimerini, 2023).

During the 53rd session of the Human Rights Council[14] which took place in the summer of 2023, Cyprus spearheaded a joint statement on "Femicides and Human Rights" in collaboration with Israel, and it received co-sponsorship from 69 member states spanning all regional groups. Also, earlier in March 2023, during the 67th session of the Commission on the Status of Women[15] which took place in New York, Cyprus partnered with Malta, UN Office on Drugs and Crime (UNODC), and UN

[12] Association for the Prevention and Handling of Violence in the Family

[13] by the Mediterranean Institute of Gender Studies (MIGS)

[14] https://www.ohchr.org/en/hr-bodies/hrc/regular-sessions/session53/regular-session

[15] https://www.unwomen.org/en/csw/csw67-2023

Women to organise a side event that aimed to break the silence surrounding femicide (Hadjichrysanthou, 2023).

Given this information, the **outcome** within the RRP could be characterised as "**dialogue**," as this legal change enables a certain level of attunement. Although it is still not fully resolved, this attunement emerges when institutional, legal and policy frameworks are found to support short and medium-term attunement. Some degree of consensus exists among various groups (i.e., women's advocacy groups and MPs), even if the ongoing struggle to eliminate GBV is not entirely resolved. Another very recent news article highlighted the inadequacy of victim protection in cases of GBV in Cyprus (Philenews, 2023). Specifically, SPAVO expressed concerns about the deficient victim protection system for GBV, as per statements submitted to the Parliamentary Human Rights Committee (Philenews, 2023). The Association highlighted the lack of response to their requests for a meeting and updates from the highest authority. Survivors of violence reportedly face extended wait times in hospitals, and the Network Against Violence Towards Women emphasised that not all GBV cases are referred to dedicated police departments (Philenews, 2023). Other issues include the non-enforcement of protective and exclusion orders, as well as unimplemented custody orders, leading to the victimisation of children (Philenews, 2023). The Advisory Committee for the Prevention and Combating of Domestic Violence revealed that approval for the Women's Shelter Procedures, a document outlining binding procedures, has been pending for two years (Philenews, 2023). Thus, this partial agreement is facilitated by the presence of laws, regulations, and policies that actively encourage alignment in the short and medium term, though it remains unsettled.

Synthesis of Rights/Regulations Pathway

Cyprus, marked by historical gender inequalities dating to the British colonial era, has seen progress since the establishment of the Republic in 1960, granting women voting rights but facing challenges amid ethnic nationalism and militarism. Despite strides in gender equality, hurdles remain in political representation. Media portrayal of femicides reflects biases, fostering an **uneasy context** for women. The 2019 case of Metaxas exposed systemic flaws rooted in racism, nationalism, and patriarchy, with migrant women's identities overlooked in investigations. Although a femicide-specific law passed in 2022, societal reactions revealed uncertainties in women's regulatory-rights pathway, making their **belonging precarious**. Despite legal advancements, Cyprus lacks specific policies to prevent femicide, highlighting gaps in addressing GBV. Ongoing efforts indicate progress, yet challenges persist, reflecting the intricate interplay among regulatory changes, societal attitudes, and institutional reactions, culminating in a **dialogue-driven outcome**.

Conclusion

In conclusion, Cyprus has progressed from a history of gender inequalities to recent strides in addressing these issues. Despite improvement in the Gender Equality Index since 2010, gender disparities persist, notably in politics where male dominance prevails. Media portrayal of femicides reflects societal biases rooted in racism, nationalism, and patriarchy. Whilst the 2022 femicide law is a milestone, comprehensive policies to prevent GBV are still needed. Recommendations include adopting a global definition of femicide to aid law enforcement and improve victim safeguarding (Cecchi et al., 2022; Weil, Corradi & Naudi, 2018). Enhancing data collection on violence against women, improving risk assessment in intimate partner violence cases, and providing systematic training for professionals interacting with victims are crucial (Pavlou & Shakou, 2022). Promoting gender equality and responsible media reporting on violence against women and femicide are also essential. Reiterating the need for a solid framework to dignify femicide victims, examining media influence on public attitudes and policies regarding violence is vital. Investigating media representations of femicide could inform effective strategies to alter public perceptions. (Berkeley Media Studies Group, 2009; Kouta, Kofou & Zorba, 2019). Finally, involving stakeholders, the UN Special Rapporteur on Violence against Women has urged governments to establish a Femicide Watch to gather data, develop impactful strategies, and advocate for annual data publication (Brennan, 2017; Kouta, Kofou & Zorba, 2019).

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CASE #6

Equitable Healthcare: Unravelling Asylum-Seekers' Access in Cyprus

Prism case analysis

This case examines the recent incident in which The Ministry of Health in Cyprus has come under scrutiny for mistakenly registering 170 children of asylum-seekers in the national healthcare system, only to subsequently remove them. Access to this system requires a valid residence permit, excluding asylum-seekers who are obligated to contribute a percentage of their salaries to the General Healthcare System (GHS). While the GHS was introduced in June 2019 to provide comprehensive coverage and address healthcare disparities, asylum-seekers remain excluded. This exclusion goes against international treaties safeguarding the right to fair and quality healthcare for all, including refugees and asylum-seekers. Cyprus, with its location in the Eastern Mediterranean recorded the highest number of asylum-seekers per capita in the EU in 2021. The protracted asylum application process, lasting two to three years on average, creates barriers to employment, healthcare, and education for asylum-seekers, pushing many into poverty. Cyprus's recent healthcare reform aimed to enhance accessibility and coverage through the GHS, but the exclusion of asylum-seekers has raised concerns about health equity and compliance with international agreements. The World Health Organization emphasizes the importance of addressing the health needs of migrants and refugees, aligning with the 2030 Agenda for Sustainable Development. Despite these international mandates, the case of Cyprus highlights a significant gap in the protection of asylum-seekers' right to health, perpetuating health inequities. Asylum-seekers encounter hurdles like language barriers and exclusion from comprehensive policies. Cyprus, with the highest per capita asylum-seeker rate in the EU, exacerbates disparities by excluding them from its newly established General Healthcare System (GHS), hindering trauma care, thus creating an exclusionary context for them. Negative societal attitudes persist, further isolating asylum-seekers. Despite the GHS's aim for equitable healthcare, its exclusionary approach perpetuates disparities, making their belonging persistent. The absence of clear healthcare access guidelines complicates matters, leaving asylum-seekers with limited access to basic healthcare, ultimately resulting in a modus vivendi outcome.

Case	Context	Belonging	Outcome
Equitable Healthcare: Unraveling Asylum-Seekers' Access in Cyprus	Exclusionary	Persistent	Modus vivendi

Case Overview

In a recent exposé, it was disclosed that the Ministry of Health in Cyprus removed 170 children of asylum-seekers that were mistakenly registered in Cyprus' new national healthcare system. Access to this recently established system[1] requires a valid residence permit under the Aliens and Immigration Law, as specified in Decision 164/2019 of the Health Insurance Organisation (HIO) (AlphaNews.Live & Hadjiapostolou, 2023). In Cyprus[2], individuals with international protection[3] enjoy equitable access to the General Health System (henceforth: GHS), mirroring the entitlements of natives, EU citizens and other residents in the government-controlled areas[4] of Cyprus. Asylum-seekers, even when employed and obliged to contribute a percentage of their salaries to the GHS, are currently excluded from its provisions. They acess healthcare services provided by the pre-existing healthcare system, receiving minimal provisions as most services are now channeled through the GHS (Drousiotou & Mathioudakis, 2021). This goes against several international treaties and laws that safeguard the rights of all persons to fair and high-quality healthcare, including refugees and asylum-seekers. These will be explored in more depth ahead.

To begin with, the terms used in this case study are going to be explained. A "*refugee*" is an individual forced to leave their home country because of persecution, armed conflicts, humanitarian emergencies, or violations of their human rights. When such an individual departs from their home and seeks refuge in a foreign nation, they submit an application for asylum (European Commission, n.d.-b). Consequently, an "*asylum-seeker*" refers to someone whose request for official recognition as a refugee is currently awaiting a decision or being reviewed (European Commission, n.d.- a). However, Vickers (2012) postulates that the term "refugee" should include all individuals seeking sanctuary, irrespective of the legal result of their applications. Also, the term "migrant" encompasses those who depart from their home country in pursuit of better living conditions or employment prospects. It is often used as an umbrella term that includes economic migrants, refugees, and asylum-seekers. This case study primarily directs its focus towards individuals who are formally categorised as "asylum-seekers" under the law. When the term "migrant" is used, it inclusively refers to refugees, asylum-seekers, and economic migrants, unless specifically stated otherwise.

There is presently a widely accepted consensus that the right to health includes both positive freedom, ensuring access to essential healthcare, and negative freedom, safeguarding against unwanted medical interventions (Yamin, 2005). The entitlement to healthcare is a crucial component of our human rights, reflecting our vision of a dignified and respectful life (OHCHR, 2008). The undeniable link between health and social justice stems from health being recognised as a fundamental human right. Therefore, the right to health is inherently tied to democracy, as the role of health systems as democratic institutions significantly impacts funding, rights, oversight, and decision-making, highlighting the essential role of engaged citizens in preserving human rights in healthcare and social justice (Yamin & Boghosian, 2020).

The concept of *health equity*, rooted in the idea that everyone should have an equal chance to achieve optimal health, is supported by several legal frameworks, including the World Health Organization's (WHO) constitution, emphasising the fundamental right to health for all people (Whitehead, 1990; WHO, 1946). This view of linking health with dignity, justice and democratic institutions, is distinct from biomedical and clinical interpretations of health (Yamin & Boghosian, 2020). Analysing resource allocation, discrimination, and disparities not only for their health effects but also for their implications on people's participation in decision-making processes is crucial for fostering a truly democratic society (Marks, 2001; Krieger & Gruskin, 2001; Yamin, 1997; Yamin, 2005). Many European health policymakers prioritise universal health coverage (Webb, Offee & van Ginneken, 2022). Hence, it is vital to focus on disparities in accessing healthcare services, including mental-health, among asylum-seekers, particularly in the case of Cyprus, where asylum-seekers are considered a minority group.

Method and Case Justification

This topic was chosen because health is universally recognised as a fundamental human right, and migration flows carry significant health implications (Scott, Forde & Wedderburn, 2019; WHO, 2019) for states. Cyprus presents a unique case due to its status as the EU member state with the highest per capita number of asylum applicants (ECRE, 2023) and its recent significant healthcare reform in establishing a national healthcare system (Koutsampelas, Theodorou & Kantaris, 2020). In this case study, we thoroughly examined existing scholarly and grey literature to highlight its importance. Using the RRP framework, we analyse asylum-seekers' healthcare access, broader rights context, and outcomes regarding integration. The study concludes by offering practical insights for policymakers and practitioners.

[1] It is formally known as "General Health System" (GHS) or "GESY/ΓΕΣΥ" as abbreviated in Greek.

[2] Cyprus stands divided into two parts: the southern part under the internationally recognised Republic of Cyprus (henceforth: Roc) and the northern part, a de facto state solely acknowledged by Turkey. Despite this separation, the entire island became European Union (EU) territory in 2004 upon its entry into the EU.

[3] International protection refers to either "recognised refugee" status or "subsidiary protection" status.

[4] This report focuses on the situation of asylum-seekers in the government-controlled areas of Cyprus (RoC).

Context, Belonging, Outcome

Cyprus is situated in the Eastern Mediterranean sea and ranks as the third-largest island and is home to approximately 1.244.000 residents (World Bank Open Data, 2022). Recently, it has witnessed an increase in displaced refugees stemming from conflicts and wars in its immediate geographical area (Spaneas, 2021). Notably, in 2021, the RoC recorded the highest number of asylum-seekers per capita in the EU, with 1.480 applicants per 100.000 inhabitants (European Commission, 2022). According to the latest data from the Asylum Service[5], there were 22.182 applicants in 2022, and by the end of the year, 29.715 applications were still pending (Cyprus Refugee Council, 2023). Consequently, Cyprus has retained its status as the EU member state with the highest number of applicants per capita (ECRE, 2023). The average duration for decisions on asylum applications, even in cases of well-founded applications, is approximately two-three years (Drousiotou & Mathioudakis, 2021). Due to their protracted uncertain asylum status, asylum-seekers in Cyprus often encounter restrictive policies and obstacles in their search for employment, healthcare, and education, consequently making it extremely challenging for them to sustain a dignified standard of living, with many of them living near or below the poverty threshold. This highlights Cyprus as a compelling case study within Europe, significantly affected by the recent influx of refugees, thus meriting detailed analysis and discussion. Also, it is particularly unique case because, until 2019, Cyprus was among the few EU countries without a healthcare system providing universal coverage to its population and exhibited the highest share of out-of-pocket payments in Europe (Koutsampelas, Theodorou & Kantaris, 2020).

Cyprus' recent healthcare reform

Currently, asylum-seekers in Cyprus lack coverage under the country's GHS, a significant policy discussed since its legislation in 2001 and implementation starting in June 2019. The GHS is sustained by a dedicated fund, financed by taxpayers and the government, administered by the HIO[6], aiming to ensure people's well-being while upholding principles of social solidarity, fairness, and inclusivity in both financial contributions and coverage (Cyprus Medical Society UK, 2021; GHS, n.d.). The commencement of the recently introduced GHS in June 2019[7] was anticipated to bring about significant advancements in the healthcare environment. It aimed to establish comprehensive coverage, enhance accessibility, and ideally address healthcare disparities (Koutsampelas, Theodorou & Kantaris, 2020). The new system benefits a wide range of individuals, including Cypriot and European citizens, third-country nationals with permanent residence status[8], their dependent family members, recognised refugees, and individuals with subsidiary protection. Beneficiaries under the new GHS have the freedom to choose their general practitioner (GP) and receive comprehensive care for chronic and severe illnesses (Koutsampelas, Theodorou & Kantaris, 2020). After over twenty years of preparation, Parliament approved two bills in June 2017 to initiate the GHS implementation, integrating public and private sectors into a unified system to promote competition based on service quality (Koutsampelas, Theodorou & Kantaris, 2020). This reform encompasses changes in funding, services, provider compensation, administrative procedures, audit mechanisms, and data gathering, aiming to improve healthcare quality, access, efficiency, and financial security for beneficiaries (Koutsampelas, Theodorou & Kantaris, 2020).

The shift to the new healthcare system influenced asylum-seekers' access to services because, until December 18, 2019, when the Council of Ministers issued a decision, there were no official guidelines defining how asylum-seekers could access healthcare[9] (Drousiotou & Mathioudakis, 2021). During that period, the introduction of the new system led to significant confusion among medical and hospital staff regarding the healthcare rights of asylum-seekers. In various instances reported to the Cyprus Refugee Council (CyRC) and other refugee non-governmental organisations (NGOs), individuals were refused treatment at hospitals and were directed to register with GHS instead. Scheduled appointments with doctors who had transitioned to GHS were cancelled, and access to certain medications was reported to be restricted (Drousiotou & Mathioudakis, 2021).

The right to health and healthcare safeguarded under global legal provisions and agreements

According to international law, people are entitled not only to healthcare but to achieve and preserve well-being, as outlined in the 1948 Universal Declaration of Human Rights adopted by the United Nations (UN) General Assembly (United Nations, 1948). The right to health is articulated in the International Covenant on Economic, Social, and Cultural Rights (ICESCR), which was signed and ratified by Cyprus in 1967 and 1969 respecitively (United Nations, 1966a). Article 12 of the ICESCR describes this right, emphasising states' responsibilities to progressively attain the "*highest attainable standard of health*" within available resources (United Nations, 1966b). Under international law, countries are obligated to respect, protect, and fulfil the right to health, including avoiding systemic discrimination in healthcare, preventing interference

[5] The Asylum Service is the statutory entity responsible for asylum-seekers in Cyprus.

[6] HIO stands for Health Insurance Organisation.

[7] It initially focused on outpatient care in 2019 and then encompassed hospital care by June 2020.

[8] (or those who have obtained equal treatment rights as per national laws)

[9] Extract from the minutes of the meeting of the Council of Ministers 18th of December 2019 (Απόσπασμα από τα Πρακτικά της Συνεδρίας του Υπουργικού Συμβουλίου Ημερομηνίας 18 Δεκεμβρίου 2019), available in Greek at: https://bit.ly/2TRello

from third parties, and actively working towards healthcare accessibility and favourable health conditions (Kinney, 2001; UN Committee on Economic, Social and Cultural Rights, 2000).

As previously stated, migration flows hold substantial public health implications, stressing the need for an adequate healthcare sector response (Scott, Forde & Wedderburn, 2019; WHO, 2019). WHO emphasised in 2019 the importance of adequately responding to the health needs of migrants and refugees as a means to advance the 2030 Agenda for Sustainable Development. Particularly concerning legislation related to the rights of refugees and asylum-seekers, the International Refugee Law commits states to working progressively to realise refugees' rights to the highest attainable standard of physical and mental-health among others (UNHCR, 2017). Specifically, it emphasises the importance of advocating for national budgetary allocations to address their healthcare needs (UNHCR, 2017). Whilst numerous governments are considering legislation and administrative actions to tighten immigration controls and address national security issues, including Cyprus, the UNHCR Guide to International Refugee Law (2017) suggests that careful attention should be given to the integration of refugee protection principles, including access to healthcare. Also, as stated in the International Covenant on Social, Economic, and Cultural Rights (ICESCR, 1966), asylum-seekers possess the right to enjoy the highest possible standard of physical and mental-health. Consequently, states need to guarantee that asylum-seekers have access to free primary and emergency medical care, including mental-health, from the moment they arrive and throughout their asylum process. It is imperative to note that another significant aspect to consider is that the Covenant states that countries should avoid any discriminatory practices concerning access to health services, be it preventative, curative, or palliative, for all individuals, including asylum-seekers. Hence, denying asylum-seekers access to these services is not permissible according to the Covenant's guidelines. Notwithstanding the ratification of these international agreements and as demonstrated by the case example of Cyprus, there is evidence to suggest that asylum-seekers and refugees often experience poor health in host countries in Europe because there is a great variability regarding laws and regulations for access to healthcare for refugees and asylum-seekers (Bradby et al., 2015; Lebano et al., 2020).

Within the RRP, we observe an **exclusionary context**, as the mechanisms of opposition are based on excluding this specific group, namely the asylum-seekers, from the relevant community, whilst simultaneously benefiting all other groups[10] which are included in the GHS to this date. Importantly, this exclusion even extends to employed asylum-seekers who are obligated to contribute a portion of their monthly salaries to the GHS (Drousiotou & Mathioudakis, 2021). Therefore, in the case of Cyprus, there are evident differences in the healthcare provision between different groups of people. So, the existing provision of state-run healthcare in Cyprus does not ensure health equity (Koutsampelas, Theodorou & Kantaris, 2020) and does not adhere to the mentioned international agreements.

Healthcare coverage for asylum-seekers in Europe

In a recent evaluation of universal health coverage in the EU, various countries have established distinct funding mechanisms to provide healthcare coverage for asylum-seekers, refugees, and undocumented migrants (Webb, Offe & van Ginneken, 2022). Examining healthcare accessibility for asylum-seekers and refugees in Germany and Greece, it is noteworthy that Germany, historically praised for its active engagement in immigration and integration policies (Rinaldi, 2023), provides limited healthcare access for asylum-seekers within the first 18 months, primarily for acute illnesses (Hertner, 2021; Hoffmeyer-Zlotnik & Stiller, 2021). Greece, on the other hand, has faced criticism for its treatment of asylum-seekers, with restricted healthcare availability due to resource shortages and an overburdened public health system (Emmanouilidou, 2023; Smith, 2023; Agrafioti Chatzigianni et al., 2021). Despite legal provisions, both countries struggle to provide adequate healthcare, especially specialised care for torture and trauma survivors. These disparities highlight the diversity in healthcare services accessible to asylum-seekers and refugees in Europe, exposing distinct challenges and potential enhancements within each country's healthcare system (Bradby et al., 2015; Lebano et al., 2020). Even when access is guaranteed, disparities and variations persist in healthcare access (Affronti et al., 2014; Halmdienst, Radhuber & Winter-Ebmer, 2013; Lebano et al., 2020; Tognetti, 2015). These findings demonstrate that states are not adhering to the international standards. Past reseach shows that individuals from minority backgrounds, particularly those with limited language proficiency, may face challenges in receiving empathetic care, establishing rapport with healthcare staff, accessing sufficient information, and engaging in medical decision-making (Ferguson & Candib, 2002; Hjörleifsson, Hammer, Diaz &, 2018). Despite experiencing heightened rates of mental-health issues, refugees often hesitate to seek help for their mental-health issues (Byrow et al., 2020). Social determinants of health significantly influence the overall well-being of asylum-seekers and refugees, impacting their physical, mental, and social dimensions of life within host communities. Refugees face post-migration social adversities due to their migration experiences, public attitudes towards them (Kadianaki & Andreouli, 2017; Kadianaki et al., 2018) and national/regional policies (Hynie, 2018). Asylum-seekers, particularly vulnerable to various risk factors, span diverse groups, including children, individuals facing sex, gender, or sexual orientation-related circumstances, and those with health and welfare concerns (UNHCR & IDC, 2016). Moreover, challenges in providing healthcare to asylum-seekers are apparent. Healthcare services for asylum-seekers often focus narrowly on medical issues, neglecting cultural sensitivity

[10] (i.e., native Cypriots, recognised refugees, those with subsidiary protection, EU citizens, and third-country nationals residing in the RoC who are either employed, permanent residents, family members of beneficiaries, or individuals insured in another EU member state)

and gender-specific needs (Liebling et al., 2014). A systematic review emphasises a gap in understanding the effectiveness of existing services in addressing refugees' mental-health needs (Satinsky et al., 2019). Also, perceived expenses associated with healthcare services can deter utilisation, even when services are offered at minimal or no cost (Bartlett et al., 2022).

Although asylum-seekers in Cyprus are not part of the GHS, they still receive healthcare through the previous healthcare system, which offers them basic care. This is because the majority of public health services and medication prescriptions are now provided under the GHS. They are also often required to pay for medications not available through hospitals (Drousiotou & Mathioudakis, 2021). This stands in contradiction to the GHS' original mission when it was initially introduced as a healthcare system centred on the people, with the primary goals of ensuring universal coverage, equal and impartial treatment, and fostering social reciprocity within the country (GESY, n.d.). This also contradicts the International Covenant on Economic, Social, and Cultural Rights (ICESCR, 1966), which Cyprus both signed and ratified. In practice, and in contravention of the Covenant's principles, Cyprus does not provide asylum-seekers with the highest attainable standard of health available in the country.

Specifically, prior to the establishment of the GHS, there were expectations that it would alleviate existing inequalities and enhance accessibility, particularly for vulnerable individuals (Koutsampelas, Theodorou & Kantaris, 2020; Panagiotopoulos, Apostolou & Zachariades, 2019). Moreover, there was an anticipation that migrants would enjoy the same healthcare rights as both Cypriot and European citizens, thus reducing the disadvantages of the previous system (Koutsampelas, Theodorou & Kantaris, 2020). Nonetheless, as reiterated, the current policy excludes asylum-seekers from accessing the GHS (Drousiotou & Mathioudakis, 2021; miHUB, n.d.). To the best of the authors' knowledge, there has been an absence of public discourse, debate, or discussion to-date regarding the inclusion of asylum-seekers into the GHS[11]. In addition, consistent with scholarly literature (Ferguson & Candib, 2002; Hjörleifsson, Hammer & Diaz, 2018), existing grey literature indicates that asylum-seekers in Cyprus frequently encounter discrimination from healthcare personnel, primarily stemming from their limited proficiency in the Greek language and the reluctance of staff to communicate in English (Drousiotou & Mathioudakis, 2021). Presently, there is no scholarly literature addressing the access to and utilisation of healthcare services by asylum-seekers in Cyprus.

Due to the minority status of asylum-seekers, their mode of **belonging** remains **persistent**, as they experience prolonged periods of marginality. Specifically, the average time of decisions on asylum applications is approximately two to three years (Drousiotou & Mathioudakis, 2021). Importantly, because of their prolonged insecure asylum status, asylum-seekers in Cyprus frequently encounter restrictive policies and barriers when attempting to access not only healthcare, but also, employment and education. Consequently, they face significant challenges in maintaining a dignified standard of living, and many find themselves living at or below the poverty threshold. This situation persists notwithstanding the efforts of local NGOs dedicated to advocating for the rights of asylum-seekers. Furthermore, asylum-seekers' circumstances are further exacerbated by racial prejudice and the society's hostile attitudes towards this particular group. Past research pointed out the prevalent negative depiction of asylum-seekers in Western societies, often labelled as "illegal" and undesirable (Hanson-Easey & Augoustinos, 2010; Kadianaki & Andreouli, 2017). Neoliberal political discourse further portrays them as indolent and burdens to the economy (Hughes, 2017; Yeo, 2015). Despite common misconceptions, asylum-seekers in Cyprus receive meagre financial support, insufficient to cover basic living expenses (UNHCR Cyprus, n.d.). A recent survey among Greek-Cypriots reflects unfavourable perceptions, with asylum-seekers seen as the greatest perceived threat compared to migrants and refugees (Psaltis et al., 2023). Greek-Cypriots tend to favour segregation over integration, believing asylum-seekers lack interest in assimilating (Psaltis et al., 2023). Such attitudes align with findings from Malta, where Arab culture is viewed as a barrier to integration (Buhagiar, Sammut & Salvatore, 2018). Health disparities among asylum-seekers can be alleviated through specific integration policies (Giannoni, 2016). Cyprus drafted its first national plan for migrant integration in 2021, yet remains unimplemented (National Plan on the Integration of Migrants, n.d.). Consequently, asylum-seekers' access to quality healthcare in Cyprus remains constrained by citizenship rights, despite health being recognised as a universal human right (Burns, 2017; Pace, 2011).

In major reforms, like the GHS in Cyprus, intrinsic risks regarding its implementation and sustainability remain an enduring factor.

Whilst the legal framework ostensibly seeks to establish an equitable system to adequately protect the poor and the most vulnerable groups (Koutsampelas, Theodorou & Kantaris, 2020), it inadvertently perpetuates disparities by excluding asylum-seekers from its provisions. In addition, asylum-seekers requiring essential treatment that is unavailable within the RoC are not covered by the Ministry of Health's scheme[12] (Drousiotou & Mathioudakis, 2021). Nonetheless, in practical terms, the Ministry has, in certain cases and with the Minister of Health's approval, funded medical treatment abroad for a number of child asylum seekers (Drousiotou & Mathioudakis, 2021). Grey literature indicates that asylum-seekers encoun-

[11] This has been confirmed through an email exchange with a UNHCR staff member in Cyprus on October 18, 2023.

[12] (which implements the Directive on patients' rights in cross-border healthcare).

ter instances of discriminatory behaviour from healthcare professionals, frequently related to their limited proficiency in the Greek language and the reluctance of the medical staff to communicate in English (Drousiotou & Mathioudakis, 2021). Importantly, specialised treatment for victims of torture or traumatised asylum-seekers is limited. According to Refugee Law[13] in Cyprus, asylum-seekers lacking sufficient means and having specific reception requirements are eligible for cost-free essential medical and other care, including appropriate psychiatric services (Drousiotou & Mathioudakis, 2021). The Refugee Law integrates the requirements of the recast Reception Conditions Directive concerning the identification and support of special reception needs, especially for victims of torture. Nevertheless, in reality, the identification of vulnerabilities is primarily carried out by designated professionals in the refugee camps, although some gaps exist in this process (Drousiotou & Mathioudakis, 2021). It is important to note that the situation becomes considerably more complex in the community setting due to the absence of a specific mechanism and procedures for promptly recognising and addressing these needs (Drousiotou & Mathioudakis, 2021). Moreover, there are no dedicated facilities or services available, except for those accessible to the general population within the public healthcare system (Drousiotou & Mathioudakis, 2021). Currently, only one NGO, the CyRC, provides specialised social and psychological support to victims of torture and gender-based violence. This service is funded by the UN Voluntary Fund for the Victims of Torture (UNVFVT) and the EU (Drousiotou & Mathioudakis, 2021).

The majority of asylum-seekers in Cyprus predominantly reside in urban areas. Whilst some secure private rented housing, a significant portion finds themselves without a stable home or in precarious housing situations that risk destitution. Since 2017, homelessness among asylum-seekers has been increasing, primarily due to several contributing factors. These include an employment policy that does not effectively facilitate their integration into the labour market, financial support for unemployed asylum-seekers falling below the Guaranteed Minimum Income (GMI) provided to other financially disadvantaged groups within the population, encompassing jobless citizens and refugees. Additionally, rising rental costs driven by heightened demand for housing and prolonged asylum application processing times have exacerbated this situation (UNHCR Cyprus, 2023). Also, asylum-seekers face restrictions in terms of employment opportunities primarily concentrated in low-skilled sectors. Also, securing employment within these sectors poses challenges for most due to language barriers and bureaucratic obstacles. Moreover, access to the labour market for asylum-seekers has become even more limited starting from autumn 2023. Although they were permitted to work one month after filing their asylum claim, a circular implemented in early 2023 stipulated that as of September 2023, asylum-seekers will need to wait nine months after submitting their asylum claim before they can seek employment (UNHCR Cyprus, 2023). This further exacerbates their challenges in attaining fundamental necessities, such as healthcare, particularly due to the absence of a comprehensive integration policy.

Further obstacles could affect the ability of asylum-seekers to access and make use of healthcare services. For example, extensive bureaucratic processes and intricate administrative procedures may act as restraints (Koutsampelas, Theodorou & Kantaris, 2020). Moreover, their limited language skills and ongoing adaptation challenges in a new and demanding environment could further isolate asylum-seekers (Koutsampelas, Theodorou & Kantaris, 2020). Despite the challenges, asylum-seekers continue to access healthcare through the previous provisions, as full attunement, such as their complete inclusion in the GHS, remains partially unachieved, leading to the current **outcome** of **modus vivendi** within the RRP.

Synthesis of Rights/Regulations Pathway

This synthesis analyses healthcare access for asylum-seekers within the framework of international law and the right to health. Focusing on Cyprus, which has seen a recent surge in asylum-seekers, it examines disparities in healthcare access and the **exclusionary context** they face. Despite international agreements, asylum-seekers in Europe encounter barriers such as language, cultural insensitivity, and exclusion from comprehensive policies, perpetuating poor health outcomes. Cyprus, as the EU member with the highest number of asylum-seekers per capita, excludes them from the GHS, exacerbating disparities and hindering trauma care. Negative societal attitudes, persist, making their **belonging persistent**. The implementation of GHS, whilst intended to provide equitable healthcare has perpetuated disparities by excluding asylum-seekers. The absence of clear guidelines for healthcare access further complicates the situation. Asylum-seekers face barriers to accessing essential healthcare, and specialised trauma care is limited. Hence, the **outcome** is characterised as **modus vivendi**.

Conclusion

In conclusion, healthcare access for asylum-seekers in Cyprus and across Europe poses a multifaceted challenge despite international agreements affirming the right to health. Cyprus, experiencing a significant influx of asylum-seekers, imple-

[13] Article 9ΙΓ (1) (b)

mented the General Health System (GHS) to promote fairness and inclusivity but excluded asylum-seekers, contradicting international standards. This exclusion leads to marginalisation and precarious living conditions which are further exacerbated by discrimination and negative stereotypes. The broader issue extends to other countries where legal frameworks often fall short in practical implementation, resulting in persistent healthcare disparities. Given that the general public and policymakers are primarily focused on macro-level concerns related to the financial viability of the GHS and addressing the opposition from interest groups in enacting the programme, there has been limited attention given to integration policies (Koutsampelas, Theodorou & Kantaris, 2020). Foremost, it is imperative for policymakers to recognise that the significant healthcare reforms in Cyprus do not ensure health equity, particularly when addressing highly vulnerable groups, such as asylum-seekers. Addressing these challenges requires policy changes to ensure asylum-seekers' inclusion in national healthcare systems, enhanced cultural sensitivity training for healthcare professionals, and public awareness campaigns to challenge stereotypes. Furthermore, comprehensive integration policies, such as the national plan for migrant integration in Cyprus, should be both implemented and rigorously enforced. Prioritising social integration policies, including comprehensive measures for healthcare, education, and employment, is crucial. The case highlights the importance for more inclusive and equitable healthcare systems aligned with international human rights standards to achieve universal healthcare coverage and the highest attainable standard of health for all individuals.

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CASE #7

Same-sex partnerships and the case of Civil Union Law in Cyprus

Prism case analysis

This case analyzes the regulatory rights prism surrounding the Civil Union Law (CUL), shedding light on its impact on LGBTQI+ rights and the broader social context in Cyprus. The adoption of CUL in Cyprus on December 9, 2015, marked a crucial development in LGBTQI+ rights. Positioned as the 17th EU country to introduce registered partnerships for same-sex couples, the CUL garnered mixed reactions within Cypriot society. While granting legal recognition to same-sex couples, the law explicitly denied crucial parenthood rights, sparking public debates and highlighting deep-seated divisions. The socio legal context leading up to the CUL reflected a conservative societal stance, with LGBTQI+ rights often overshadowed by issues of national identity. Legal changes, such as the decriminalization of male homosexuality in 1998, were influenced by political aspirations to join the EU. However, LGBTQI+ rights remained largely neglected until 2004, when legal penalties for discrimination based on sexual orientation were introduced. Homophobic attitudes persisted, affecting various aspects of Cypriot life, including schools, where bullying based on sexual orientation was prevalent. The law's introduction marked an exclusionary context for LGBTQI+ rights but served as a catalyst for non-conflictual activism, employing peaceful means like lobbying and marches. The regulatory rights prism analysis highlights the dual nature of the Cypriot context—exclusionary in terms of LGBTQI+ rights but non-conflictual in the methods employed by activists. While the CUL was a landmark step, its limitations underscore the ongoing challenges faced by the LGBTQI+ community in Cyprus. The analysis offers insights into the complex interplay of legal changes, societal attitudes, and the transformative potential of activism.

Case	Context	Belonging	Outcome
Same-sex partnerships and the case of Civil Union Law in Cyprus	Exclusionary	Persistent	Modus vivendi

Case Overview

Over the recent decades, laws have been introduced to grant homosexual individuals fundamental family rights from which they have been long deprived. As of 2023, 34 countries worldwide allow same-sex marriage and 36 countries allow different forms of civil partnership for same-sex couples (Pew Research Centre, 2023; ILGA World, 2023). On the societal level, attitudes towards homosexuality gradually shift towards being positive over the years (Dotti Sani & Quaranta, 2022), yet homosexual individuals in the European Union (EU) still face discrimination in their everyday lives because of their sexual orientation (FRA, 2020). Moreover, societies across the globe are witnessing the rise of homophobic extremism which may subvert LGBTQI+ community's fight for equality (see Gera, 2022).

Legislations regarding LGBTQI+ rights are in dynamic relation with society's attitudes towards the LGBTQI+ communities and they vary between and within countries (e.g., van der Star & Branstrom, 2015). Whereas introducing legislations to protect minorities from discrimination and/or ensure their human rights is a necessary condition for non-discriminatory societies and states, legislation changes are not sufficient for attitudes change across the segments of the public sphere (Dotti Sani & Quaranta, 2022).

This report takes a case-study approach focusing on the Republic of Cyprus (RoC) and the introduction of the Civil Union Law (CUL) for both homosexual and heterosexual couples in the Cypriot Law. On the 26th of November 2015, the parliament of the RoC voted for the adoption of the CUL (Law 184 (I)/2015) with 39 votes in favour, 12 votes against and 3 abstentions (House of Representatives Cyprus, 2016) and since 18th January 2016, couples in the RoC may enter a Civil Union (CU) independently of their sex. The CU is currently the only option available for same-sex couples to receive legal recognition of their partnership in Cyprus. Despite being portrayed as offering same-sex couples equal rights to those offered by marriage, it explicitly denies parenthood rights to same-sex couples (see Civil Registry and Migration Department, n.d).

The CU case had sparked public debates around LGBT rights in the Cypriot context. Pro-CU individuals and groups were framing the CU bill as a long due human rights issue and a step towards progress whereas the anti-CU pole was framing it as a case of unjustified special treatment and a step towards moral decline. Today, approximately 8 years after the introduction of the CU in the Cypriot law, LGBTQI+ rights advocates and activists fight for the right to Civil Marriage as well as for legal amendments on the CUL to ensure greater equality regarding family rights.

Despite being discriminatory towards same-sex couples on some aspects, the CUL is argued here to have been a stepping stone for LGBTQI+ rights in Cyprus. In RRP terms, the CUL has been introduced in an exclusionary and non-conflictual context where LGBT communities were experiencing a precarious belonging and it has contributed to the emergence of a Dialogue between polity and LGBT communities, opening the possibility for further transformations in the RoC.

Method and Case Justification

In the years leading up to the introduction of the CUL, heated public discussions around LGBTQ+ rights were taking place in the Cypriot public sphere, especially in the media (see Baider, 2018; Kadianaki et al., 2018). The CUL was an occasion where journalists, politicians, activists, public figures, religion leaders, and lay people publicly discussed their views on homosexuality and advocated for, negotiated, or opposed LGBT rights. Under this scope, the CUL in Cyprus becomes a suitable case to study how granting a right to a community which has been long deprived from it, becomes an object for opposition in a society.

The Cypriot context is of further interest since it regards an ethnically divided context with an ongoing intractable intergroup conflict and constitutes a context which is both geographically and culturally positioned between the East and the West, Europe and non-Europe. Having accessed the EU in 2004, RoC is in a constant effort to confirm Europeanness (Argyrou, 2010) and to move towards modernization which for the Greek-Cypriot community equals the EU (Trimikliniotis, 2001). Cyprus thus forms a context of ideological and identity dilemmas, which were found to underlie the public debate about LGBT rights in 2015 as well (Kadianaki et al., 2020).

The report is based on a multi-disciplinary review of international and local literature regarding LGBT rights and experiences, drawing from research conducted in the fields of Social Psychology (e.g., Kadianaki et al., 2020), Gender Studies (e.g., Onoufriou, 2010) and Political Sciences (e.g., Kamenou, 2023). It further draws data from surveys such as the Eurobarometer and scholarly reports (e.g., Kamenou et al., 2019). Additionally, references to local media content and governmental documents are made to support the arguments. The aim is to weave together literature regarding the experiences of LGBT individuals, attitudes towards LGBT and the CUL, LGBT activism, and homophobic extremism for the purposes of providing a RRP analysis of the CUL in Cyprus.

Context, Belonging, Outcomes

The intractable intergroup conflict in Cyprus between Greek-Cypriots and Turkish-Cypriots, has pushed aside other social issues which have been neglected or not-adequately addressed by the state and the society (Papadakis, 2006). In comparison to the “Cyprus Problem” which is framed as an ethnic issue, other issues such as sexuality and gender have been diachronically considered inappropriate or of less importance to the society. Fluid concepts such as non-normative sexualities and/or genders are perceived as threatening to the nation and the polarised issue of national identity (Kamenou, 2016).

This is further reflected on the fact that male same-sex sexual conduct remained an illegal act in the RoC until 1998. In 1993, after failed efforts for lobbying in the socially conservative Cypriot **context**, Alecos Modinos turned to the European Court of Human Rights (ECtHR) demanding the decriminalization of same-sex sexual conduct (Alecos Modinos against the Republic of Cyprus, 1993). The ECtHR decided in Modinos’ favour, yet ECtHR’s decision was not easily accepted by the Parliament of the RoC which decriminalised same-sex sexual conduct 6 years after the ECtHR’s decision and after being warned with expulsion by the Council of Europe (Kamenou, 2023). In effect, political aspirations of the time to enter the EU in combination with the long-standing diplomatic priorities to reserve Europe’s support on the Cyprus Problem, have had a catalytic impact on how the state responded to LGBT rights. After the decriminalisation of male homosexuality, LGBT rights had

gone back into invisibility to a great extent. In 2004, following Cyprus' entry to the EU, the RoC introduced legal penalties for discrimination based on sexual orientation in work environment and in 2015, legislation amendments were introduced for legal penalties for homophobic and transphobic rhetoric and discrimination in all environments.

Despite the above legal changes taking place, negative attitudes and behaviors towards LGBT individuals infiltrate various aspects of the Cypriot society such as the media, the political arena, the educational system, and social life (Demetriou, 2014; ECRI, 2016). Both LGBT and non-LGBT individuals acknowledge the existence of negative attitudes and in their majority believe that discrimination based on sexual orientation in Cyprus is widespread (FRA, 2013; 2014). In the Special Eurobarometer on Discrimination (2006), 86% of Greek-Cypriot respondents considered homosexuality a taboo in Cyprus during that time. Other studies show that Greek-Cypriots construct Cyprus as a place where there is no space for diversity and they believe that homosexual individuals need to seek for happiness outside Cyprus (Onoufriou, 2009; 2010).

Surveys conducted with LGBT participants demonstrate that they experience various forms of discrimination in their daily lives. 56% of the LGBT respondents in Cyprus stated that they had been personally discriminated against or harassed on grounds of their sexual orientation in the last 12 months, whereas the EU average was 47% (FRA, 2013). Moreover, 23% of the respondents in Cyprus stated that they were physically/sexually attacked or threatened with violence in the last five years based on their sexual orientation or gender identity. Yet, 88% of them did not report the incident to any governmental or non-governmental service, stating as their three most frequent reasons for non-reporting that they believed authorities would not or could not do anything about it or that they felt embarrassed to do so (FRA, 2012). Alongside, research shows that majority of LGBT individuals in Cyprus do not reveal to others their sexual orientation or gender identity to protect themselves from potential victimization and harassment due to their sexual orientation (FRA, 2013; 2014; Kapsou et al., 2011).

The Civil Society Organisation (CSO) "ACCEPT-LGBTI Cyprus" which was formed in 2011, is an important CSO which aims to promote LGBTQI+ rights in Cyprus, raise awareness about issues of sexual orientation and gender expression and combat LGBTQI-phobia. Nevertheless, their work takes place amidst a rather socially conservative **context** with prevailing heteronormative and patriarchal norms (Kamenou et al., 2019; Tryfonidou, 2017) and vis-à-vis oppositions of the Orthodox Church of Cyprus.

The Orthodox Church of Cyprus is an institution with a central role in the political and social sphere. Its representatives publicly express opinions on a variety of national, political, economic, and social issues. Among those are also issues relevant to LGBTQI+ rights which they have been diachronically opposing. Church's representatives were strongly positioned against the decriminalization of homosexuality (Kamenou, 2016), and against the conduction of Pride Events in Cyprus. Prior to the first ever organisation of Pride in Cyprus, the Church published announcements to be read across churches, condemning homosexuality (Church of Cyprus, 2014) and collected signatures to demand the cancelation of the event (Psillides 2014).

The first Pride march took place in 2014 with the slogan "same love, equal rights" (ACCEPT – LGBTI Cyprus, 2014) and it was accompanied by a counter-parade of a small group mainly consisting of far-right individuals, priests, and nuns (Athanasiades, 2022). In contrast to the counter-parade, the Pride unexpectedly received great support from the broader society. ACCEPT-LGBTI estimated that most attendees were heterosexual individuals expressing their disagreement with the conservative side of the Cypriot society. Overall, even though the socio legal **context** of Cyprus in the years prior to the CUL was depriving the LGBTQI+ community from their human rights, LGBTQI+ communities were fighting for their rights employing peaceful mediums, such as lobbying, marches and legal actions.

Moving on closer to the years leading up to the CU bill, the focus now shifts towards the public debates regarding LGBT rights and the CU happening between 2011 and 2015. Both traditional and online media constitute an important social arena where public debates take place and where meanings regarding diverse social issues are (re)constructed and ideologies disseminated (Wilcox, 2003). Media thus play a crucial role in justifying or dismissing prospective and existing policies and practices. In the case of the CU, media representations of same-sex marriage and civil partnerships have implications on the way LGBT+ rights may be asserted or contested in the public sphere, and they thus contribute to enabling or constraining citizenship (Kadianaki et al., 2020).

In the years leading up to the CU bill, a social debate on sexual and family rights which was largely absent from the Cypriot public sphere until then (Tryfonidou, 2017), was now initiated and gradually intensified in printed and online media and in the political arena. According to Kadianaki et al., (2018) the number of articles referring to the LGBT community in the printed press was gradually increasing between 2011 and 2015. Moreover, in 2015, approximately half of these articles referred specifically to the CU (Kadianaki et al., 2018), indicating a possibility that the CU bill brought into visibility the LGBT community and its **belong**ing in the Greek-Cypriot society.

During this period, journalists and non-journalists wrote opinion articles regarding the CU bill and same-sex couples' eligibility to conduct one. The public sphere engaged with the CU bill not solely as a news topic but also argumentatively (Kadianaki et al., 2018). In their qualitative analysis of published opinion articles between 2011-2015, Kadianaki et al. (2020)

unveiled two oppositional themes perfusing the authors' debates. The first was constructed on the dichotomy between the construction of the CU as protecting universal rights and promoting equality vis-à-vis as introducing undeserved special rights for LGBT individuals and thus promoting inequality.

Pro-CU authors constructed the CU bill (a) as a legislation inseparable from a democratic state which would reinforce acceptance and respect of human diversity or (b) as a human rights issue which would regulate several practical difficulties experienced by same-sex couples (e.g., financial matters, pension etc). The everyday life of heterosexual and homosexual couples was a focal point of comparison in these articles attempting to highlight "sameness" between the two and the right to "normal life" which was justifying the need for the introduction of the CUL. Anti-CU authors constructed the CU bill as unjustifiable, arguing that the Cypriot Law already protects human rights irrespective of individuals' sexual orientation. Building on the idea of "sameness" as well, anti-CU authors were in contrast claiming that all humans are already equal and the introduction of the CUL would distort equality, giving excessive rights to certain social groups (Kadianaki et al., 2020).

Within this oppositional theme of Universal VS Special Rights, pro-CU authors often referred to the right to privacy and individual choice to justify sexual rights (Kadianaki et al., 2020) both of which are concepts commonly referred to when advocating for sexual rights globally (Richardson, 2017). Anti-CU authors were referring to the private sphere and the right to self-determination as well when constructing homosexuality. Anti-CU authors draw on privacy to locate homosexuality as an activity taking place in the "bedroom" and reduce homosexuality to the act of sexual conduct. As a result, anti-CU constructed homosexuality as a private and personal choice which belongs to the very private sphere of each person and they were thus dismissing the need for social or legal changes for a matter which was of personal significance only (Kadianaki et al., 2020).

The second oppositional theme was structured around the polarity of the CUL being a step towards progress vis-à-vis being a sign of decline and national degeneration. Pro-CU authors constructed the bill as a symbol of a much-needed progress in the "backward" Cypriot **context** which needs to be disciplined in accordance with the "progressed" European and Western societies. Anti-CU authors, in contrast, constructed the bill as a threat to the Cypriot society imposed by the "morally corrupt" and "declining" Europe and West. In this context, Cyprus was constructed as threatened by cultural contamination from the West.

Online News portals and discussions in the form of "comments" were another arena where the public debated about the bill. Baider (2018) collected data across two specified periods during 2015-2016 from comment-discussions of relevant-to-LGBT articles which were posted in online news portals. The identified articles triggered 25% positive comments, 48% negative comments and 26% irrelevant or neutral comments. In contrast to the printed opinion articles which were in their majority positive, negative stances towards homosexuality and the CU bill prevailed online. Commenters often referred to the LGBT+ community with strong derogatory nouns revealing a polarized debate, loaded with hate speech (e.g., "Go to hell you fucking faggots, may you die!").

The prospect of the CU being introduced into the Cyprus Law was framed in the anti-CU discourse as a contributor to society's decadence. The CU bill was seen as a dangerous legislation which would grant rights to "abnormal" individuals. "Abnormal" was another noun used to refer to LGBT+ individuals which was implying physiological, psychological, or moral abnormality and/or pathology. As a result, the CUL was strongly denied based on catastrophic future scenarios (e.g., child abuses, birth deficits, immorality). These findings are in line with the anti-CU argumentation present in the printed press described above. On several occasions, the CUL in online comments was not denied based on a rights-talk but rather on a discourse which rendered the LGBT community ineligible of family rights.

Debates were also present within the Parliament. The Parliamentary Committees on Internal and on Legal Affairs conducted 7 sessions between 11th of June and 6th of July 2015 where they discussed the CU bill in the presence of several stakeholders and government members. The bill was submitted for voting on the 9th of July 2015 but voting was suspended, and the bill was re-discussed in two sessions in October. (Republic of Cyprus, 2016). According to media reports of the time, the discussions were characterized by strong divisions both between and within political parties as well as between stakeholders attending the discussions (i.e., Church and ACCEPT-LGBTI representatives).

Representatives of the Orthodox Church of Cyprus were repeatedly expressing homophobic views. They were officially positioned against any form of marriage beyond the religious one and against the legal recognition of homosexual relations (ECRI, 2016). The Holly Synod and the then Archbishop of Cyprus were raising alarms towards the state to secure the CU from allowing same-sex couples to adopt as this would lead to "raising children with psychological problems" (Church of Cyprus, 2015; 24hcomcy, 2015).

Closing the discussion regarding the public debate around the CU bill, one observes that even though a big proportion of the society publicly supported LGBT rights (see Kadianaki et al., 2018), the LGBT community was also exposed to attacks from powerful institutions such as the Church, from MPs and from anti-CU lay people. Anti-CU discourse often constituted hate speech, especially in the online world (see Baider, 2018) where in other occasions the anti-CU authors were employing various disclaimers to avoid potential accusations of their opinions as homophobic (Kadianaki et al., 2020).

Despite the discursive tensions unfolding in the public debate, after the approval of the CUL, there were no intense or violent reactions reported. Today same-sex couples may enter a CU and between January 2016 and October 2022, 236 same-sex couples entered a CU (Kasia, 2022). Prior to the CUL, Cyprus scored very low at the Rainbow Index which measures legal and policy human rights situation of LGBTI people in Europe (20% in 2014 and 18% in 2015) (ILGA Europe, 2014; 2015). Currently, Cyprus scores 31%, yet this remains low as Cyprus is at the 24th position out of the 39 countries included in the Rainbow Index and at the 19th position among the 27 EU member-states (Rainbow Index, 2023). RoC belongs to the group of countries where the process of equivalisation of rights regarding LGBTQI+ at the legal level has started but it is not yet completed (Dotti Sanni & Quaranta; 2022).

The CUL was a major legal development in the largely heteronormative and patriarchal Cypriot social **context**, yet not sufficient for societal change. Data from the Eurobarometer Surveys of 2015 and 2019 suggest that Cypriots' acceptance of same-sex civil marriage has not changed significantly in the 4 years after the introduction of the CUL (see Annex I) while a longitudinal comparison for the period 2002-2019 shows only liminal increase in positive attitudes towards homosexuals (Dotti Sanni & Quaranta, 2022).

Nevertheless, the CUL has been a stepping stone for LGBTQI+ rights in Cyprus paving the way for further demands for social and legal changes. Currently, the LGBTQI+ community and activists are advocating for the right to civil marriage and in 2022, ACCEPT-LGBTI organized their PRIDE events with the slogan "marriage for all". Marriage is an institution socially perceived as of higher symbolic value and its absence indicates a legal cleavage between homosexual and heterosexual individuals (Gallo et al., 2014). Denying the right to marriage to same-sex couples and offering only alternative forms of marriage to them has been argued to symbolically separate same-sex couples from the "sacred" institution of marriage (Kitzinger & Wilkinson, 2004).

CU's prohibition of child adoption and/or aided procreation for same-sex couples has also been problematic as it has -to some extent- deterred same-sex couples from conducting one. According to the Cyprus Rainbow Families organisation, same-sex couples may choose not to conduct a CU and officially remain single individuals to maintain their right to Invitro Fertilisation and their eligibility for governmental funding for it[1] (Kyriakou, 2022). Cyprus is one of the 10 EU countries where rainbow families do not exist legally and consequently, LGBTI couples' children are not safeguarded. Their access to basic rights is obstructed and their normalization and acceptance in society is hindered (ILGA Europe, 2023) while, currently only one parent is legally recognized as the parent of the child which impacts the second parent's rights and obligations towards the child.

Activists' fights to change these prohibits have been recently supported by 2 MPs of the Green Party who have filed a law proposal to amend the law on CU so that (a) couples who have entered into a civil partnership agreement have the right to apply for adoption, (b) their access to aided procreation is being facilitated and (c) both parents are legally recognized as parents of the child as if they were married under the Marriage Law. That is, the CUL has contributed to a dialogue between the LGBTQI+ community and the polity, paving the way towards further potential changes of the Cypriot Law and towards social transformation. Below, is an analysis of the case based on the RRP.

Synthesis of Rights/Regulations Pathway

According to the RRP, exclusionary contexts are modes of opposition grounded on exclusion of one group or another within the relevant polity. The Prism also defines non-conflictual contexts as modes of opposition in which a given minority has remained, sometimes over centuries, and never been fully attuned but does not seek to integrate into the polity by violent means. The CUL in Cyprus was introduced in a relatively exclusionary yet also non-conflictual context for the LGBT community, where there were no legal mediums available to receive legal recognition of their partnerships and they were thus deprived from their rights as citizens. LGBT individuals in their majority were choosing not to even disclose their sexual orientation publicly as there were fears of disapproval and ostracism from family, work environments and broader society (FRA, 2014). Concealing of sexual orientation was widespread among LGBT individuals, despite the significant legal changes that Cyprus went through in 1998 (decriminalization of homosexuality) and in 2004/2015 (legislations to combat discrimination based on sexual orientation).

This mismatch between legal changes and attitudes are in line with existing literature which demonstrates that legal changes are not sufficient on their own for societal changes to take place (Dotti Sani & Quaranta, 2022). LGBT activists and advocates in Cyprus have been persistently fighting for their rights, despite the strong oppositions faced by the Orthodox Church, the diffused heteronormative norms, and their stigmatization by the society. CSOs and collectives such as the ACCEPT-LGBTI Cyprus, have grounded their activism on peaceful and non-violent mediums such as marches, gatherings and events, information dissemination and lobbying while seeking to create dialogues with the state, politicians and the

[1] This applies to female homosexual individuals.

society.

The LGBT community can be argued to have found a mode of attunement to exist in the Cypriot society but suspicion and fear that their position may be supplanted or challenged remains. Although segments of the Cypriot society explicitly supported LGBT+ family rights, other segments both at the lay and the institutional level were opposing them. As shown in the studies discussed earlier, both anti- and pro- CU individuals build their arguments on ideas of "sameness", "equality" and "privacy". However, each pole recruited these ideas in clearly opposing ways. Regarding the employment of the right to privacy, when employed by an anti-LGBT rights perspective it depoliticizes LGBT+ identities and their fights, narrowing them down to personal matters. It thus dismisses the need for societal change and hinders social transformation (Brickell, 2001). However, Plummer (2001) argues that its employment from a Pro-LGBT perspective can lead to the neglect of consideration of the sociocultural barriers to individual agency and thus also hinder social transformation. Consequently, one needs to consider that seemingly pro-LGBT arguments could possibly function in opposite ways than the desired ways.

Opponents to the CUL would often draw on discourses and employ discursive strategies to disclaim potential homophobic attributions whereas in other occasions they would unreservedly engage in hate speech towards LGBT individuals. Despite the legal changes taking place to protect LGBTQI+ minorities and support from certain social groups, the LGBT+ community/individuals are in a precarious belonging where they are aware that they should live every day in caution and with suspicion. For example, in 2018, a group of university students lowered and burned the rainbow flag which was lifted at the University of Cyprus for the International Day against Homophobia and Transphobia (see Kadianaki et al., 2022), whereas in 2023 a group of university students and alumni violently attacked an event organized by the Cyprus University of Technology Students Union and ACCEPT-LGBTI. The increase of homophobic extremism, which is a rather international phenomenon, is alarming as it reinforces precarious belonging. It further constitutes a threat to LGBTQI+ community that may challenge their rights once again, contribute to legal backlashes or reinforce exclusion of the LGBTQI+ from the society.

Conclusion

Today, approximately 8 years after the introduction of the CUL in the Cypriot Law, several same-sex couples have chosen to conduct a CU. However, LGBT+ individuals are still confronted with everyday discrimination and institutional and legal discrimination (e.g., non-legal recognition of parenthood) which may prevent them from conducting a CU. LGBT rights advocates discuss CUL's limitations and push towards further legislations that will ensure the right to Civil Marriage and rights to parenthood. Certain MPs endorse these demands and have recently submitted a proposal for law amendments on the CUL. Moreover, collectives such as the Cyprus Rainbow Families push towards both societal and legal changes through their actions. Local legal and policy frameworks such as the CUL support short and medium-term attunement of the LGBT community. Alongside, transnational institutions such as the European Union and the process of Europeanisation have been and continue to be catalysts towards LGBT rights in Cyprus. In conclusion, CUL's introduction to the Cypriot Law has led to an **outcome** of Dialogue between LGBTQI+ communities and the polity which will hopefully contribute to further social transformation in Cyprus.

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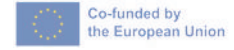

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Annex I:
Data from the Eurobarometer Surveys of 2015 and 2019 for the Republic of Cyprus

	Special Eurobarometer 437 Year: 2015 N=500			Special Eurobarometer Discrimination 493 Year: 2019 N=503		
	Agree	**Disagree**	**DK**	**Agree**	**Disagree**	**DK**
Gay, lesbian and bisexual people should have the same rights as heterosexual people	310 62%	156 31%	34 7%	317 63%	160 32%	25 5%
There is nothing wrong in a sexual relationship between two persons of the same sex	198 40%	270 54%	32 6%	202 40%	277 55%	25 5%
Same sex marriages should be allowed throughout Europe	183 37%	281 56%	36 7%	179 36%	303 60%	20 4%

CASE #8

European Parliament Elections as a democratic process strengthening the voice of the Turkish-Cypriot Community in Cyprus

Prism case analysis

This case examines the EU voting rights of Turkish-Cypriots (TCs) in the context of the divided island of Cyprus. The intractable intergroup conflict between Greek-Cypriots (GCs) and TCs, dating back to the island's independence in 1960, has led to a complex geopolitical situation. Despite being EU citizens, TCs face challenges in exercising their EU voting rights due to the suspension of EU law in areas not controlled by the internationally recognized Republic of Cyprus (RoC). Legislative changes in 2014 aimed to facilitate TCs' participation in European Parliament (EP) elections, but issues such as anti-EU sentiment, accusations of traitorship, and bureaucratic obstacles persist. The case highlights the 2019 EP elections, where Dr. Niyazi Kizilyurek's successful election marked a positive shift, emphasizing the potential role of political representation in bridging communities. Applying a Regulatory Rights Prism, the case underscores the exclusionary context fueled by the enduring culture of conflict and the divergent attitudes within the TC community, offering insights into the complex dynamics at play.

Case	Context	Belonging	Outcome
European Parliament Elections as a democratic process strengthening the voice of the Turkish-Cypriot Community in Cyprus	Exclusionary	Persistent	Modus vivendi

Case Overview

The European Parliament (EP) is the only institution in the European Union (EU) directly elected by the EU citizens. Today, it has equal legislative power as the European Council and maintains co-decision power for most policy domains (Franklin & Hobolt, 2011). Despite EP's legislative and policy power, EP elections turnouts remain significantly lower compared to national parliament turnouts (Clark, 2014) and differ greatly between member states (Marquart et al., 2020). The broader EU public's indifference and apathy towards EP elections (Blondel et al., 1998) has been attributed to citizens' perceptions of EP elections as of less important elections where less is at stake (Lefevere & van Aelst, 2014) while others discuss the impact that variables such as the country's contribution to the EU budget (Stockemer, 2012), voters' sociodemographic characteristics and individuals' attitudes towards the EU may have on voting behaviour (Flickinger & Studlar, 2007; Marquart et al., 2019). Another part of the literature, sheds light on the multi-dimensional role media campaigns and interpersonal communication play on intention to vote (Marquart et al., 2020).

EP elections turnouts vary *within* member states as well. The Republic of Cyprus (RoC) forms a particular case, where the Turkish Cypriot community's turnout is extremely low compared to the RoC's overall turnout or to other member-states' turnouts. Cyprus is an island experiencing an intractable intergroup conflict between its two main communities, Greek-Cypriots (GCs) and Turkish-Cypriots (TCs). After RoC's accession to the EU, the EU law was suspended in the areas not under the effective control of the RoC, where the majority of TCs currently reside. Several factors related to the conflict, have been hindering TC's participation in the EP electoral process throughout the years. Indicatively, in the 2019 EP elections the turnout recorded for the Turkish-Cypriot community (TCC) was 6,93% whereas the overall turnout for the RoC was 44,9% (Ministry of Interior of the RoC, 2019).

The current report provides a brief context of the Cyprus Conflict followed by a focus on how the EP elections unfolded for TCs in 2004, 2009, 2014 and 2019 and on the relations between the TCC and the EU as well as the GCC. The case of the TCC's participation in the EP elections is approached through the Regulatory Rights Prism. It is argued to be an example of an exclusionary context nurtured by the culture of conflict, where the pro-EU segments of the TCC experience a persistent belonging and the situation currently results to an outcome of Dialogue between TCs and the EU as well TCs and GCs.

Method and Case Justification

The Cyprus' intractable intergroup conflict is a multi-layered and dynamic context of extremism and polarization between and within the two involved communities. The situation is partially perpetuated through the maintenance of oppositional history and political narratives cultivated across the two communities for decades. Oppositions and extremisms exist also within each community. Social groups within the GCC and within the TCC differ regarding their representations of the conflict, their attitudes towards the outgroup and their aspirations for the solution to the conflict (see Psaltis, 2011). That is, national identity in Cyprus is a highly polarized and politized issue (Kamenou, 2016).

It is of interest to this report to examine how polarizations and extremisms related to the conflict pervade democratic processes such as the TCC's participation to the EP elections. The report is based on a multi-disciplinary literature review of the history and sociopsychological development of intergroup relations between GCs and TCs as well as between TCC and the EU. Given the limited academic literature regarding TCs' participation in the EP elections, supportive information is drawn from media news reporting, state's official announcements and from communications with a civil society organization engaged with the matter[1].

Context, Belonging, Outcomes

The RoC is an island country located in the east Mediterranean Sea which gained independence from the British in the 1960. The constitution of the country officially recognizes 2 ethnic communities: "Greek" and "Turkish" communities of Cyprus which are, however, engaged in a long-term ethnonational intractable intergroup conflict with each other. After a series of violent intercommunal disputes happening between 1963 and 1974, the island was divided with the geographical separation of the two communities with the UN Buffer Zone. Today, TCC lives in the northern part of the island forming the so-called Turkish Republic of Northern Cyprus ("TRNC"); an internationally non-recognized state which is only recognised by Turkey. GCC lives in the southern part of the island in the areas effectively controlled by the internationally recognised RoC. The RoC is de facto governed by GCs after TCs' withdrawal from the state.

In 1983, the TC leadership proceeded with a unilateral declaration of independence of the "TRNC" which was condemned by the UN and all states were called not to recognize "TRNC". This led to the isolation of the TCC from the world, impacting their international trade actions, airport operations and intercultural communication. Furthermore, it led to stronger financial dependence on Turkey (Bryant, 2014) as well as to the emigration of many TCs who seek opportunities outside of the island (Ker-Lindsay, 2019).

The two communities were completely segregated and intergroup contact was very complex to achieve until 2003, when travel restrictions between the Buffer zone were partially lifted. The opening of the checkpoints has led to the unfolding of several bottom-up peacebuilding initiatives on the island (e.g., Home for Cooperation; Famagusta Avenue Garage). Moreover, in 2008, under the auspices of the United Nations, bi-communal technical committees were formed as a confidence-building measure aiming to improve everyday life for Cypriots. Technical committees consider the society's concerns in the negotiation processes and encourage intergroup interactions (UNSG, 2017).

Despite multiple efforts supported by the UN to resolve the conflict[2], Cyprus remains a divided island (Ker-Lindsay, 2019). Intractable intergroup conflicts are long-standing conflicts which remain unsolved due to unwillingness of either group to compromise or find a peaceful solution. In Cyprus, the conflict has been maintained throughout the decades though narratives emphasizing the homogeneity and indigenous nature of the Self, a focus on the ingroup suffering and victimisation, and a denial of the identity of the Other as a "real" identity, therefore delegitimizing its rights (Erhurman, 2014; Papadakis,

[1] It should be noted here that non-academic sources sometimes were not in complete accordance with each other and provided slightly different information. Indicatively, the exact number of TC voters in 2014 and in 2019 has been found to vary across news portals both within the GC media sphere as well as the TC media sphere. In cases where conflicting information was present, attempts were made to locate the official state sources of the information, and when this was not possible, only approximate numbers are provided.

[2] Both sides have agreed that any settlement will be based on a biozonal, bicommunal federation, yet they have not reach to mutually-agreed settlement yet.

2008). Official history narratives and collective memory in the two communities develop in antagonistic ways (Psaltis, 2016) while the representation of the outgroup as a threat is cultivated and perpetuated through education, media, cultural elements, and rituals (Psaltis et al., 2014; Spanou, 2020).

RoC's accession to the EU has been an opportunity for a major UN initiative to solve the Cyprus Problem[3] to be embarked in 2001. In 2004, a few weeks before the RoC officially entering the EU, the two communities held referendums on the comprehensive settlement proposal "Annan Plan" which proposed the creation of a federative state which -if the plan was accepted by the majority of both communities- it would then accede to the EU (Ker-Lindsay, 2019; Kyris, 2012). Annan Plan was accepted by the TCC (66% in favour) but rejected by the GCC (76% against). Consequently, Cyprus entered the EU as a whole island, yet the EU's body of laws are suspended in the areas not under the effective control of the RoC (Ker-Lindsay, 2019).

TCC's vote in favour of the Annan Plan was considered a positive vote on reunification, in contrast to that of the GCC, and was followed by a call from the UN Secretary-General for the need to undo TCs' isolation and to eliminate unnecessary restrictions and barriers which impede the development of the TCC (Ker-Lindsay, 2019). For example, since 2006, the European Commission maintains an Aid Program for the TCC aiming to support reconciliation, confidence-building and to bring the TCC closer to the EU, facilitating the implementation of the acquis once the Cyprus Problem is solved (European Commission, 2023). Moreover, EU representatives hold informal meetings with officials of the unrecognized TRNC and support the civil society sector (Gülseven, 2020; Ioannides, 2021).

During the Annan Plan, potential EU membership was framed as a future catalyst to the solution of the conflict (Grigoriadis & Felek, 2019) and to the termination of TCs' isolation (Strüver, 2020). In the post-Annan period, the positive image that TCs maintained for the EU, dropped to 40% in 2007, compared to the 68% it was back in 2005. Additionally, trust that EU would foster peace fell from 47% to 19% between 2006 and 2009. The increased sense of hope for future cooperation with the EU which was observable during the Annan Plan referendum period drastically shifted as time went by and the TCC experienced limited interactions with EU institutions (Düsünceller, 2009). Alongside, TC media distanced themselves from EU-related news coverage since the RoC adhered to the EU without a solution to the conflict and EU legislations were suspended from implementation in the northern part of Cyprus. Thus, the everyday life of TCs was, in effect, not affected by RoC's accession to the EU.

The intractable intergroup conflict in Cyprus is a multi-dimensional ethnonational conflict unfolding at the political and diplomatic level as well as at the societal level, being embedded in and influencing the everydayness of Cypriots. In RRP terms, it poses exclusionary **contexts** both to GCs and TCs on different aspects of their lives. Specifically, it poses an exclusionary context for the TCC in relation to the exercise of their EU rights.

The first EP elections in Cyprus took place on 13th of June 2004, and since then 3 more EP elections took place, those of 2009, 2014 and 2019. The RoC is represented in the EP by 6 MEPs. According to the Draft Act of Adaption to the Terms of Accession of the United Cyprus Republic to the EU as provided by the Annan Plan, each community would have been represented in the EP by no less than one third of the Cypriot seats. Given that Annan Plan failed to be accepted by both communities back in 2004, there was no legal obligation for proportional representation (Villioti, 2012).

Since RoC's accession to EU, many TCs have claimed their right to RoC citizenship which effectively renders them EU citizens and grants them all EU rights, including the right to run and vote for EP elections[4] (Villioti, 2012). In 2004 and 2009 EP elections, TC's participation was not encouraged and was significantly hindered due to bureaucratic complications posed by the RoC and due to going unacknowledged in the TC media (D. Beyalti, personal communication, October 11, 2023). In 2014, the RoC implemented legislative changes as an attempt to facilitate TCs' participation in the EP elections and special election centres were functioning across the checkpoints so that TCs residing in the northern part could vote easier once they cross the Buffer Zone. Whilst approximately 90.000 TCs were expected to be included in the electoral roll, bureaucratic complications and failure of timely communication led to the exclusion of approximately one third of the electoral roll (Ker-Lindsay, 2014). Long queues were formed across check points during the day of the elections causing serious delays and waiting times which the RoC public servants and representatives failed to address. Many TCs left frustrated without voting. Others performed spontaneous demonstrations to express their dissatisfaction.

One candidate addressed the Central Electoral Service requesting the cancellation of the elections while other candidates complained to the Ombudsman's Office. In both cases the candidates' demands were not fulfilled. Finally, 3 TC voters took the incident to the Supreme Court but lost the case (D. Beyalti, personal communication, October 11, 2023). RoC representatives' explanations regarding the errors and miscommunication were perceived by TC representatives as inadequate (Ker-Lindsay, 2014; Newsbomb, 2014). In the end, only 1869 TCs voted during the 2014 EP elections (3, 19% turnout) whereas a big proportion of TCs behaved in accordance with the calls of certain TC political leaders not to take part in the

[3] Cyprus Problem is a term used to refer to the ethnonational intergroup conflict between GCs and TCs.

[4] TCs reside in their majority in the areas not under the effective control of the RoC, however the suspension of the EU law regards *the areas* and *not the TC individuals* residing in these areas.

elections (D. Beyalti, personal communication, October 11, 2023; Ker-Lindsay, 2014). It is reported that TCs with intention to vote in the EP elections were accused by certain groups and media as traitors (D. Beyalti, personal communication, October 11, 2023). EU attitudes in the TCC are closely related to attitudes towards the Cyprus Problem. Pro-EU attitudes are expressed mainly by political parties belonging to the left spectrum and by supporters of a bizonal bicommunal federation resolution to the conflict. Political parties which favour a two-states solution and promote TCC's ties with Turkey (ethnonationalist), tend to maintain an anti-EU stance in general (Grigoriadis & Felek, 2019; Gülseven, 2020).

Five years later, in 2019 elections, further efforts were made to facilitate TC's participation. There was a significant increase of the TCs who were successfully registered in the electoral roll compared to the 2014's numbers. In 2014, 58,639 TCs were registered in the electoral roll and in 2019 the number increased to 81,611. The turnout also increased from 3,19% to 6,93% but TCs still had to face bureaucratic difficulties as well as to surpass linguistic barriers given that the RoC and European Parliament's Cyprus office provide most information in Greek.

Language has been a barrier to Europeanisation through media in the TCC as well. Despite being an official language of the RoC according to its constitution, Turkish have not been introduced neither as an official nor a working language in the EU. Thus, TC media have limited access to news resources, and they also lack specific units and skilled personnel addressing EU-related topics. As a result, EU-related news often falls under the umbrella of foreign news. The return of many young TC journalists on the island which were previously educated in European countries, the presence of TC media associations in EU institutions, as well as collaborations between TC-GC media are all currently contributing towards a shift towards a stronger coverage of EU-related topics in TC media (Grigoriadis & Felek, 2019).

Nevertheless, at the societal level, awareness of European Institutions such as the EP or the European Commission in the TCC remains relatively low compared to that in the GCC. At the same time, approximately half of the TCC feels non-attached to the EU (European Commission, 2019) implying that the sense of an EU identity is not a taken for granted identity for the TCC. This contrasts with the GCC who in their majority state that they feel EU citizens (European Commission, 2019). TCs' attitudes and trust towards the EU institutions fluctuates throughout the years and is in close relation with the state of the negotiation processes and peace talks regarding the Cyprus Problem (Grigoriadis & Felek, 2019).

The electoral process is fundamental to democracy. Direct elections to the EP were introduced to strengthen the democratic dimension of the EU (Franklin & Hobolt, 2011). Yet, in contexts experiencing intractable intergroup conflicts, democratic rights are not easy to secure and promote. The EP elections taking place in Cyprus have been an occasion of Persistent **belonging** where pro-EU segments of the TCC, consisting of individuals, political parties and figures, civil society organizations, media companies etc., have been continuously safeguarding their EU voting rights and trying to promote them within the community. Their mission has not been easy. On the one hand, there are strong anti-EU attitudes prevailing in the so-called "TRNC" during certain time-periods and/or within certain groups that adhere to ethno-nationalistic ideologies. On the other hand, TCs need to safeguard their EU rights from ethno-national, far-right voices within the RoC parliament and the GCC as well. As it will be explained below, ethno-national voices within the GCC refuse TCs' EU rights. Finally, TCs need to confront a variety of practical difficulties (e.g., linguistic barriers, bureaucratic procedures, waiting time) during the electoral process which other EU citizens do not have to experience, and that the RoC has so far failed to successfully respond to in the previous 2 EP elections of 2014 and 2019.

Despite the obstacles towards the Europeanisation of the TCC and towards their active participation in democratic EU processes, their participation so far has contributed to building bridges between the two communities. The EP elections have been an opportunity for the formation of bicommunal collaborations such as the example of ΔΡΑΣυ-EYLEM (Drasi-Eylem) which was a bicommunal radical left movement consisting of 4 GCs and 2 TCs, in the 2014 EP elections ballot. ΔΡΑΣυ-EYLEM received in total 0,86% of the overall votes (N=2.220), with both GC and TC voters. Moreover, in 2019, the TC candidate Dr. Niyazi Kizilyurek run for the EP elections under AKEL, a left-wing, pro-reconciliation and pro-federation political party, de facto runed by GCs. Dr. Niyazi Kizilyurek was successfully elected as an MEP for the RoC and he became the first TC MEP. He received 25,051 votes out of which only 4,076 belonged to TCs and the rest 20,975 to GC votes. Apart from fostering bicommunal collaborations, EP Elections are currently the only elections where both GCs and TCs vote with the same ballot, and any citizen can vote for any candidate, independently of their ethnic group. For example, Κίνημα Ɣιασεμί/ Yasemin Hareketi (Jasmine Movement) which was founded by Sener Levent as well as the Socialist Party Cyprus, consist solely of TCs candidates and they also receive both GCs' and TCs' votes (Ministry of the Interior of the RoC in Politis News, 2019).

Efforts to reinforce participation of TCs in the EP elections are met with hostility by certain groups of the TCC as previously explained. They are also met with hostility among segments of the GCC. In 2023, the MPs of the far-right GC party ELAM (ΕλΑΜ) filed a proposal to repeal the special electoral catalogues for TCs arguing that their participation in the EP elections legalizes the status of the "TRNC" and the Turkish occupation (Nomoplatform, 2023). The proposal was recently rejected, yet the event acts as a reminder that as long as there is no resolution of the Cyprus Problem, GC and TC citizens are exposed to the threat of ingroup's and outgroup's extremist ethnonational ideologies which strive to delegitimize the Other's rights.

Concluding this section, TCs' participation in EP elections could empower and strengthen the voice of the TCC both internationally and within the RoC. Living in a context of isolation and dependence on Turkey, TCC's voice is rarely heard internationally given the "TRNC"'s status. Turnout remains significantly low even though it has increased from 3,19% in 2014 to 6,93 % in 2019. Moreover, Civil Society Organisations such as the Human Rights Platform are occupied with the issue and implement projects aiming to raise awareness about EU rights in the TCC and reinforce participation in the EP Elections (D. Beyalti, personal communication, October 11, 2023). The successful candidacy and election of Dr. Niyazi Kizilyurek as an MEP has been an important contributor to strengthening TCs' voices within the EP. Additionally, MEP Kizilyurek has inaugurated a Liaison Office in the TCC to promote awareness and visibility about the EP among TCs. EP elections are an opportunity for the TCC to address their voices to the international community and to the GCC, however one should not underestimate the threats for backlashes that the continuation of the status quo of the conflict imposes. In the case of TCC's EU voting rights, an **outcome** of Dialogue as this is defined by the RRP, is observable both between TCC and the GCC as well as between the TCC and the EU bodies.

Synthesis of Rights/Regulations Pathway

The current report addressed the issue of EU voting rights of the TCC in Cyprus. The intractable intergroup conflict poses an Exclusionary context for TCs' EU rights and specifically their EU voting rights. Despite being EU citizens, TCs' participation in the EP elections has been hindered and thus their democratic rights and voice as a community in the EU were limited. Given that the majority of TCs reside in an area where the EU law is suspended, EU institutions develop relationships with the community mainly in the context of unofficial meetings or collaborations with the Civil Society Sector and through programs such as the Financial Aid Program. The community's socioeconomic development is still highly dependent on Turkey which is the only country recognizing "TRNC" as a state.

The legislative changes that were implemented for the first time in the EP elections of 2014 and later in 2019 have not yet succeeded in promoting EU voting rights across the TCC. As argued above, the ethnonationalist, anti-European and anti-unification lobby among the community has been calling for abstention from the voting processes. Additionally, the serious bureaucratic and practical difficulties that TCs experienced in the previous electoral processes create a sense of perceived unwillingness on behalf of GCC to share power with TCs and further contribute to cultivating TCs' indifference to the EP elections. Finally, a big proportion of TCs lacks awareness regarding EU institutions and the EP elections, while levels of pro-EU attitudes and trust towards the EU are in continuous fluctuation corresponding to the status of the peace talks. The segments of the TCC which strive for the enhancement of the EU citizenship are in a continuous struggle to promote voting in their community, thus indicating a Persistent belonging according to the RRP.

Conclusion

Amidst a challenging environment, bicommunal collaborations and TCs political parties and movements have been present in the 2014 and 2019 ballots. TCs' participation in the elections both as voters and candidates impacts their relations with the EU and the GCC. It contributes to bringing the two communities closer through collaborations and inter-ethnic voting. It is also an opportunity for the TCC to strengthen their voice and representation in the EU and develop Dialogue with the GCC. After the successful election of the first TC MEP, a Liaison Office was inaugurated for the TCC aiming to promote awareness and visibility about the EP while civil society organisations are managing EU-funded projects with similar aims. Even in the context of the intractability of the conflict, a relative achievement of attunement is being achieved through (a) institutional, legal and policy changes, (b) EU's support and (c) the work of the pro-EU segments of the TCC. This outcome of Dialogue is however susceptible to the culture of conflict which remains unresolved and to the extremist ethnonational ideologies which strive to delegitimize the Other's rights. A transformative outcome for the case of TCs' EU rights is impossible without addressing the essential drivers of the conflict and working towards conflict resolution.

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CASE #9

On Being an Ally

Prism case analysis

This case highlights the controversy involving Anheuser-Busch InBev (AB InBev) and transgender social media influencer, Dylan Mulvaney, which stirred significant debate over LGBTQIA+ rights and corporate allyship. AB InBev faced backlash for its handling of the partnership with Mulvaney, leading to a noticeable drop in Bud Light sales and sparking discussions on the authenticity of corporate support for LGBTQIA+ communities. The incident exemplifies the delicate balance companies must maintain between expressing solidarity with marginalised groups and navigating the expectations of their broader consumer base, raising important questions about "rainbow-washing" and the genuine integration of inclusive values. The case underscores the ongoing struggle for equality, acceptance, and recognition faced by the LGBTQIA+ community, showcasing both advancements and persistent forms of intolerance. It emphasizes the importance of understanding the specific context in which policies are applied, acknowledging the volatile and multifaceted nature of the challenges encountered. The case also delves into the subsequent backlash, resulting in a substantial decline in Bud Light sales. Anheuser-Busch's response, marked by a tepid apology and organizational shifts, raises questions about corporate responsibility, authenticity in allyship, and the translation of support into tangible actions. Thus shedding light on the broader socio-political context, where progressive corporations find themselves at odds with traditional supporters, reflecting the evolving dynamics in corporate America. The critique faced by Bud Light coincides with legislative proposals targeting transgender individuals, illustrating the brand's inadvertent entanglement in contentious issues. The case concludes by highlighting the need for companies to navigate community backlash, avoid accusations of "rainbow-washing," and translate statements of support into substantive policies that foster inclusivity.

Case	Context	Belonging	Outcome
On Being an Ally	Uneasy	Precarious	Rejection

Case Overview

In recent years, the global struggle for LGBTQIA+ rights has seen significant advancements and setbacks, exemplifying an ongoing battle for equality, acceptance, and recognition of diverse sexual orientations and gender identities. While the world has witnessed remarkable milestones in LGBTQIA+ rights, such as marriage equality in many countries[1], the repeal of archaic anti-sodomy laws[2], and the increasing visibility of LGBTQIA+ figures in various sectors, these advancements often coexist with persistent and deeply entrenched forms of intolerance. Moreover, hate crimes, discrimination in healthcare, and the exclusion from social and religious organisations, showcase the various dimensions of the struggle that persists in different parts of the world. This makes for a variety of contexts that are extremely volatile and dependent on multiple factors (country specific, media trends, historical and legal background, etc.) that can often be difficult to gauge from potentially *emancipatory* and all throughout *exclusionary*.

[1] The most recent is notable - Greece, legalised same-sex marriage and adoption, thus becoming one of the first Christian Orthodox countries to do so.

[2] In the United States, for example, the Supreme Court case Lawrence v. Texas (2003) played a significant role in striking down anti-sodomy laws. Lawrence v. Texas, 539 U.S. 558 (2003) https://www.law.cornell.edu/supct/html/02-102.ZS.html

This report aims to shed light on the multifaceted challenges faced by the LGBTQIA+ community to their precarious sense of belonging, insisting on the importance of a careful analysis of the specific context in which a desired policy is applied. From the controversial and often discredited practice of conversion therapy[3] to discrimination in employment[4] and "Don't Say Gay" legislation[5], the complex landscape of intolerance faced by LGBTQIA+ individuals will be highlighted in one recent and particularly mediatized case. By examining this case, we seek to contribute to a broader understanding of the contemporary state of LGBTQIA+ rights and their regulation, emphasising the importance of ongoing efforts to consistently combat discrimination and promote inclusivity. Drawing on a range of examples that illustrate the ongoing struggle for equality, and focusing specifically on a recent case that saw Anheuser-Busch InBev SA/NV (commonly known as AB InBev) - the largest brewing company in the world[6] - suffer significant losses due to their support of a popular trans social media activist. AB InBev is a publicly listed company, with its primary listing on the Euronext Brussels. It has secondary listings on Mexico City Stock Exchange, Johannesburg Stock Exchange, and New York Stock Exchange[7].

The pursuit of allyship and inclusivity in the workplace has become a prevalent topic of discussion at Pride in the Workplace (PIOW). The following case addresses common inquiries regarding effective allyship, both at an individual and organisational level. It emphasises the pivotal role of integrity as a starting point for fostering an inclusive environment - to illustrate this regulatory-rights pathway, we examine the experience of Dylan Mulvaney, a trans social media influencer who has recently become embroiled in an extremely polarised debate on trans rights.

As trans visibility increases, community members often find themselves subject to scrutiny and targeted attention. Surprisingly, research indicates that a significant majority of adults have limited personal connections with transgender individuals, relying on a single acquaintance as a representation of the entire trans community[8]. Consequently, the actions and experiences of each trans person can disproportionately influence public perceptions. This case sheds light on the complexities of trans identity and the associated difficulties of finding adequate timing and venues for the advancement of LGBTQIA+ rights amidst societal expectations and tensions. By understanding these challenges, organisations can proactively contribute to a more inclusive and supportive workplace environment.

The power of visibility in the digital age has transformed the way individuals connect and engage with others. Dylan Mulvaney, a trans social media influencer with a massive following on platforms like Instagram and TikTok, exemplifies the far-reaching impact that visibility can have. Through a series documenting her transition, called "Days of Girlhood" Mulvaney has earned over 12 million followers across both TikTok and Instagram, while also becoming a target for anti-trans hate. As Mulvaney shares her personal journey of gender transition with her followers, her online presence has garnered both praise and criticism. In October 2022, Mulvaney even spoke with US President Biden at the White House about transgender rights.

Mulvaney's ascent to social media stardom is inextricably tied to her transparent and enthusiastic sharing of her gender transition. She began documenting her gender transition in the "Days of Girlhood" series on TikTok over a year ago. By welcoming viewers to join her on this transformative journey, she has cultivated a dedicated and engaged audience. However, her bubbly and stereotypically feminine persona has also attracted scrutiny, with some also accusing her of perpetuating gender stereotypes. It is important to recognize that Mulvaney is just one voice within the diverse trans community, coexisting alongside cisgender women who also share their stories on social media platforms. Despite the criticisms, companies have taken notice of Mulvaney's success and have sought partnerships to tap into her engaged audience.

Method and Case Justification

This case explores the complexities of navigating visibility, allyship, and corporate responses in the context of Mulvaney's experience, focusing specifically on the partnership between Mulvaney and AB InBev, the parent company of Bud Light. This particular brand collaboration with Bud Light propelled Mulvaney into the centre of a storm of anti-trans sentiment.

[3] American Psychological Association. (2009). Report of the American Psychological Association Task Force on Appropriate Therapeutic Responses to Sexual Orientation https://www.apa.org/pi/lgbt/resources/therapeutic-response.pdf

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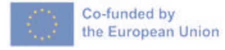

The controversy surrounding the Bud Light partnership ignited on April 1st 2023, when Ms. Mulvaney shared a video on her Instagram profile, boasting a substantial following of 1.8 million users. In the video, she aimed to promote a Bud Light contest, which lasted less than a minute. Primarily, she highlighted a $15,000 giveaway sponsored by the company during *March Madness*[9]. In addition, Ms. Mulvaney mentioned that Bud Light had commemorated her 365-day milestone by sending her a tallboy can adorned with her own face. As Bud Light faced backlash for engaging Mulvaney as a spokesperson, the company's response took on paramount importance. The controversy escalated when on April 3rd 2023, Robert James Ritchie (known professionally as Kid Rock), a prominent figure in the American country music scene, stirred controversy and played a significant role in the unfolding events surrounding the Bud Light boycott. Kid Rock took to Twitter to share a video that depicted him using a semiautomatic rifle to shoot cases of Bud Light beer cans. This act was widely interpreted as a direct response to an advertising campaign launched by Anheuser-Busch, the parent company of Bud Light, which prominently featured transgender influencer Dylan Mulvaney. In the video, Kid Rock can be heard passionately expressing his discontent, exclaiming, "Fuck Bud Light. Fuck Anheuser-Busch". This vehement reaction quickly garnered attention and added fuel to the already simmering controversy. Kid Rock was not alone in his stance against Bud Light and Anheuser-Busch, he joined the ranks of prominent conservative influencers such as Sebastian Gorka, Candace Owens, and Vince Dao, who were collectively instrumental in advocating for the boycott of Bud Light. Their collective efforts contributed significantly to a substantial decline in Bud Light sales during that period, which continues today.

In response, Anheuser-Busch issued a tepid apology from its CEO, Brendan Whitworth, asserting their unintentional involvement in a divisive discussion. He attempted to walk back the partnership by saying, "We never intended to be part of a discussion that divides people. We are in the business of bringing people together over a beer"[10]. Additionally, the marketing VP responsible for the campaign took a leave of absence. Following a decline in Bud Light's sales, Anheuser-Busch, disclosed in late April that two of its executives were stepping away temporarily. In early May, the company further revealed its intention to shift its marketing strategies towards sports and music.

On the 10th of May, 2023, HSBC undertook a noteworthy downgrade of Anheuser-Busch InBev's stock. HSBC analysts, in their assessment, highlighted concerns beyond the surface-level impact of the partnership, indicating that AB InBev might be contending with more profound issues than had been officially disclosed. The catalyst for this reassessment was a discernible backlash following the collaboration with Dylan Mulvaney. The subsequent negative sentiment manifested in a notable wave of public opposition and culminated in an organised boycott against the brand. The magnitude of the public disapproval prompted HSBC analysts to scrutinise the company's standing and strategic decisions. One notable metric cited by HSBC analysts in their report was a Beer Marketer's Insights[11] note that disclosed a substantial decline in beer sales, potentially exceeding 25% in the month of April. This marked drop in sales, attributed to the aftermath of the partnership and ensuing controversy, served as a critical indicator for HSBC in reassessing the financial health and market position of AB InBev. The profound impact on consumer behaviour, as evidenced by the significant reduction in beer sales, compelled HSBC to revise its evaluation of AB InBev's stock, recognizing the tangible repercussions of the 'Bud Light crisis' on the company's financial performance.

This incident marked a pivotal moment in the ongoing debate surrounding corporate responsibility, freedom of expression, and the influence of public figures on consumer behaviour. It serves as a testament to the power of social media and celebrity endorsements in shaping public opinion and impacting the commercial success of major brands. What appeared to be a relatively established marketing trend for Ab InBev - known for its cutting-edge and progressive advertising - became an object of everyday extremism. We will analyse here the increasingly polarised context in which this incident occurred, as well as the ambient extremism that ensued.

Anheuser-Busch's reaction to the controversy raises pertinent questions about everyday extremism as well as the integrity of the company and its commitment to supporting LGBTQIA+ communities. While the organization had previously received a perfect score on the Human Rights Campaign's Corporate Equality Index and had demonstrated support for Pride events and local LGBTQIA+ non-profits, its response to the Mulvaney incident seemed lacking in substance and timeliness. This raised doubts about the authenticity of their allyship and whether their actions align with their stated values. Moreover, it highlights the challenges faced by corporations in addressing community backlash, avoiding accusations of "rainbow-washing," and translating statements of support into tangible policies.

Mulvaney's partnership with Bud Light presented an opportunity for the company to reaffirm its commitment to supporting LGBTQIA+ communities, particularly in a climate of increased anti-trans violence and rhetoric. However, meaningful

[9] March Madness refers to that time of year (usually mid-March through the beginning of April) when the National Collegiate Athletic Association (NCAA) men's and women's college basketball tournaments are held. That term captures the excitement that swirls around the sports world as tournament time approaches.

[10] Zahn, Max. "Boycotts rarely work, experts say amid Bud Light anti-trans backlash". ABC News. Archived from the original on 14 April 2023. Retrieved 14 April 2023.

[11] https://www.reportlinker.com/market-report/Beer/87/Beer

action and consistency are essential alongside public statements to effectively address community concerns. Consumers have become increasingly discerning, demanding tangible policies and concrete measures that substantiate claims of support for marginalized communities. The case of Dylan Mulvaney and Anheuser-Busch offers valuable insights for organizations seeking to promote inclusivity, integrity, and meaningful allyship.

Anheuser-Busch InBev (AB InBev), the parent company of Bud Light, has a long history of successful marketing campaigns. They have leveraged innovative and creative strategies to promote their beer brands. Here are a few notable examples:

1. "Whassup?" Campaign (Budweiser, 1999-2002): The "Whassup?" campaign is one of the most iconic and memorable ad campaigns in beer advertising history. It featured a group of friends answering the phone with a simple "Whassup?" and became a cultural phenomenon. The campaign was highly successful in creating brand recognition for Budweiser.

2. "Dilly Dilly" Campaign (Bud Light, 2017): The "Dilly Dilly" campaign was a humorous and medieval-themed advertising series that became a pop culture sensation. It introduced phrases like "Dilly Dilly" into everyday conversation and boosted Bud Light's brand recognition. The campaign was known for its humor and quirky characters.

3. "Real Men of Genius" Campaign (Bud Light, 1998-2008): This campaign celebrated ordinary people in humorous ways. Each radio ad in the series saluted the unsung heroes of everyday life, creating a fun and memorable advertising approach that resonated with consumers.

4. Super Bowl Commercials: Both Budweiser and Bud Light have a tradition of creating memorable Super Bowl commercials. From the heartwarming Clydesdale horse ads to humorous spots like the "Wassup?" campaign and the "Up for Whatever" series, Budweiser and Bud Light consistently produce Super Bowl ads that generate buzz and excitement.

5. "Up for Whatever" Campaign (Bud Light, 2014): This campaign featured a young man navigating various unexpected and adventurous situations. The campaign encouraged consumers to be "Up for Whatever" and to embrace spontaneity. While it generated controversy due to some interpretations of its message, it successfully engaged younger audiences and created buzz.

6. Partnerships with Sports: Both Budweiser and Bud Light have strong partnerships with sports leagues, including the NFL and MLB. They have created numerous sports-related marketing campaigns, sponsorship deals, and advertising during sporting events. These partnerships have helped enhance brand visibility and connect with sports enthusiasts.

7. Environmental Initiatives: AB InBev has also run marketing campaigns to highlight its environmental efforts. For example, they have focused on promoting sustainability and water conservation in their supply chain. These campaigns showcase the company's commitment to corporate responsibility.

8. Craft Beer Acquisitions: In recent years, AB InBev has acquired several craft beer brands. While these acquisitions generated controversy within the craft beer community, they have been marketed as a way to bring craft beer to a broader audience while retaining the authenticity and quality of the craft brands.

AB InBev's marketing strategies have often combined humor, creativity, and memorable characters to connect with consumers. They have a history of producing campaigns that resonate with a wide range of audiences, contributing to the continued success of Bud Light and other brands within their portfolio.

The pushback and ensuing rush to adapt serve as a valuable insight into the evolving landscape of corporate America's political dynamics. Over the last ten years, prominent corporations have embraced progressive social policies, which now find themselves in opposition to their traditional supporters within the Republican Party and the consumers who align with it.

Criticism directed at Bud Light, coupled with broader concerns about the brand's associations with transgender individuals, coincides with the introduction of legislative proposals by Republican state lawmakers. These proposals aim to exert control over the lives of young transgender individuals, place limitations on drag shows, potentially affecting performances by transgender artists, and mandate schools to disclose transgender students' identities to their parents. Bud Light has unexpectedly found itself entangled in these contentious endeavours, becoming a symbolic focal point.

Anheuser-Busch InBev's advertising campaigns have indeed been known for their progressive, provocative, and cutting-edge approaches. Over the years, they have pushed the boundaries of traditional beer advertising, using humor, cultural relevance, and innovative storytelling to engage audiences. Their advertisements often tackled important social issues, challenged stereotypes, and played a role in changing dominant culture and perceptions. However, their approach

with the Dylan Mulvaney partnership and subsequent backlash illustrates that not all campaigns can achieve the same level of success in reshaping public attitudes, and that unexpected occurrences of everyday extremism have the capacity to produce major shift in even the most stable of trends.

Historically, AB InBev's approach to advertising has been successful in several ways:

1. Progressive Messaging: Many of their campaigns incorporated progressive messaging, whether it was celebrating diversity, challenging traditional gender roles, or advocating for social responsibility. This approach resonated with audiences who appreciated a brand that aligned with their values.

2. Cultural Relevance: AB InBev has consistently aligned their ads with current cultural trends and events. This has allowed them to stay relevant and connect with consumers on a personal level.

3. Challenging Stereotypes: The company's advertising has often taken on stereotypes, debunking them in humorous and thought-provoking ways. By doing so, they have contributed to changing societal perceptions.

4. Humor and Entertainment: The use of humor and entertainment in their campaigns has made their brand memorable and approachable. It's easier for consumers to engage with brands that make them laugh or think.

However, their approach with Dylan Mulvaney and the backlash it received illustrates that societal attitudes towards LGBTQIA+ issues can still be divisive. While previous campaigns may have been successful in shifting public perceptions, it's important to recognize that progress and acceptance are not linear. The backlash to the partnership indicates that there are still deeply held prejudices and divisions within society. This is not a reflection of the failure of the campaign itself, but rather a reminder that the fight for LGBTQIA+ rights and acceptance is ongoing.

In this case, the controversy was amplified by the involvement of prominent figures like Kid Rock and conservative influencers, who rallied against the partnership. The campaign faced a backlash from a segment of the population that holds opposing views, and their influence should not be underestimated. This episode highlights the complexities of corporate responsibility and allyship. While companies like AB InBev have been successful in promoting progressive values, there will always be segments of the population resistant to change.

The lesson from this situation is that even when a brand has a history of progressive advertising, societal attitudes remain diverse and sometimes resistant to change. Successful advertising can contribute to changing dominant culture and perceptions, but it is an ongoing process that requires continuous effort, dialogue, and engagement with diverse viewpoints. The response to the Dylan Mulvaney partnership demonstrates that while progress has been made, challenges persist, and the fight for LGBTQIA+ rights and acceptance continues.

Context, Belonging, Outcomes

The **uneasy context** in this case is clearly articulated between modes of attunement in which different groups both have legitimate and potential dominant claims and exist side by side. Uneasy contexts may unravel or continue peacefully, in this case the unravelling took a turn that intensified the already uneasy context and **precarious belonging** of the LGBTQAI+ community. The precarious belonging allows groups that have found a mode of attunement to coexist but with a suspicion and fear among each group or individual that their position may be supplanted or be challenged. The outcome resulted in rejection, since one group refused the continued presence of another within a regulatory rights pathway.

Even though the desired **outcome** was **transformative** - one that occurs when the essential drivers of opposition have been grasped as sources of injustice and are identified by extensive legal, policy and institutional frameworks as detrimental to the community - since this case occurred in an increasingly polarised context defined by everyday extremism, the desired outcome was not achieved.

Synthesis of Rights/Regulations Pathway

This case demonstrates the complexities of navigating allyship, visibility, and corporate responses in the context of LGBTQIA+ rights. It highlights the presence of both exclusionary and emancipatory contexts and attitudes towards the LGBTQAI+ community, and in this particular case an uneasy context influenced by different perspectives, while also showcasing the potential for dialogue and engagement in addressing these challenges. This case study emphasises the need for companies to go beyond superficial gestures and actively support marginalised communities. By understanding the lessons learned

from this case, organisations can work towards creating inclusive environments that prioritise authenticity, integrity, and meaningful action in their pursuit of allyship, in order to sustain desired emancipatory outcomes even in uneasy contexts.

Conclusion

The selection of this case is driven by the juxtaposition of conflicting RRPs. The intertwining narratives of exclusion, non-conflict, and persistent marginality create a unique socio-legal landscape, ripe for analysis. The choice aimed to unravel these complexities of attunement and discord within the *regulatory-rights pathway*. The RRP unveils the intricate dance between opposition and attunement. The case highlights the importance of legal and policy frameworks in shaping the trajectory of belonging. It underscores the fragility and potential of socio-legal landscapes to transform, offering insights into the complex interplay of exclusion, coexistence, and social justice.

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CASE #10

Abnormal Justice

Prism case analysis

The exploration of the rights/regulation pathway within Fraser's theoretical framework reveals the multifaceted nature of justice discourse. This examination brings to light the rights-based strategies employed by labor unions, shedding insight on their role in advocating for justice. Simultaneously, the regulatory dimensions present in international legal arenas contribute to newfound understandings of justice claims, illustrating the complex interplay between rights and regulations on a global scale. This case study further underscores the timeliness of Fraser's call to transcend the Westphalian framework, especially amidst the transformative landscape shaped by globalized economic shifts. The challenges posed to traditional notions of justice in this context highlight the need for innovative approaches. The analysis emphasizes the imperative of adopting new paradigms and participatory norms to address socio-political challenges globally. This, in turn, reflects the dynamic nature of justice discourse, echoing Fraser's advocacy for transformative outcomes and broader inclusivity in justice processes. The uneasy context and heightened sense of belonging within this framework further accentuate the evolving landscape of justice discourse. These transformative outcomes not only signify a departure from conventional norms but also underscore the imperative for new paradigms and participatory approaches in navigating the complexities of socio-political issues on a global scale.

Case	Context	Belonging	Outcome
Abnormal Justice	Uneasy	Heightened	Transformative

Case Overview

The recent rise of labour activity in the United States[1] has demonstrated how questions of global supply chains intersect with everyday issues of social justice. While these labour movements have largely been successful, they raise a series of issues regarding the relationship between trade treaties and the possibilities of ensuring the health of labour markets in sectors that have been outsourced over the last decades. While there are an abundance of particular concrete cases that could illustrate this regulatory-rights pathway, this study takes a hypothetical perspective developing a case presented by the political philosopher Nancy Fraser. The study develops this hypothetical case in order to introduce broader themes of global justice as they relate to labour, and move through the RRP.

Fraser's departure from the Westphalian framework (i.e. the national structuring of questions of justice), and her insistence for an acknowledgment of "meta-struggles" that challenge traditional conflict resolution, forms the theoretical backdrop. Fraser views struggles as routine and structuring, avoiding a predetermined outcome, and recognizing them as the engine of history without an inevitable pre-established horizon. This positions her approach as one perfectly suited for the regulatory rights pathway aiming for transformative outcomes. This case thus sheds light on a particular normative weight given to politics in Nancy Fraser's theory. This normative weight of politics conveyed by the idea of *participation*, is felt in Fraser's social theory, moral philosophy, and even in her social ontology. We point out that in so doing Fraser espouses a

[1] Unions won 1,041 elections to represent workers in Fiscal Year 2022, out of 1,363 elections held, with more than 270 of those coming from Starbucks stores across the U.S., and still more coming from Trader Joe's, Apple, Chipotle and Amazon. Those victories came despite significant "union resistance" pushback from those companies, which has led to accusations of union-busting.

necessary overcoming of the Westphalian framework in order to take into consideration the existence of "meta-struggles" that contest the nationalised procedures of conflict resolution. The case concludes with an in depth analysis of the routine and structuring character that Fraser lends to struggles. The struggles are indeed for her the engine of history, but their succession does not direct us ineluctably towards a pre-established horizon, nor a guaranteed transformative outcome.

Method and Case Justification

Organised labour in the United States made waves in 2022, as high profile strikes and worker actions scored victories at Starbucks, Amazon, The New York Times and with educators on both coasts. According to recent polling[2] union support is at its highest point in nearly 60 years and there's a sense that the tide may keep rising.

The United States has witnessed a significant resurgence in labour movements, underscored by a notable increase in strikes across various sectors. In 2022, the incidence of labour strikes rose by 52%, a clear indication of growing worker activism and the labour movement's momentum. This uptick reflects a broader trend of increased work stoppages, driven by workers and activists striving for better conditions, wages, and rights[3]. The car industry, in particular, has seen significant labour actions, as workers in auto production lines and associated sectors have increasingly leveraged strikes and collective bargaining to press for their demands. This resurgence is part of a larger narrative where the power of labour unions is gaining national attention, showcasing historic strikes and labour victories across the board, including the automotive sector. This all contributes to a heightened sense of belonging, that was previously precarious or even resentful. These movements highlight a pivotal moment in U.S. labour relations, with implications for industry standards, wage structures, and worker rights[4].

This case centres around a dispute over social justice, where labor unions in developed countries advocate for justice by blocking imports with subpar production conditions. This seemingly progressive approach faces opposition from organisations representing workers in the developing world, branding it unjust protectionism. Thus creating an uneasy context, in which different groups both have legitimate and potential dominant claims and exist side by side. The debate spans domestic and transnational spheres, reflecting a clash between justice pursued through democratic politics at the territorial state level, and global justice advocated by free-marketeers. Disputes thus extend to international legal arenas, involving corporations and states, exemplified by a North American Free Trade Agreement[5] (NAFTA) arbitration panel. The contested proceedings and protests in transnational civil society align with Nancy Fraser's concept of "abnormal justice", where everything, from the locus of argument to the topography of debate, is disputed. This theoretical framework is particularly complementary of the RRP as it enables policy-makers, educators and the public to envision new pathways towards transformative and dialogue outcomes, conducive of greater democratic capacity.

The following is a hypothetical dispute over social justice, as proposed by Fraser:

> Claiming to promote justice for workers at home and abroad, labour unions in developed countries seek to block imports whose production conditions do not meet domestic environmental, health, and safety standards. Organisations representing workers in the developing world object that, in imposing standards they cannot possibly meet at the present time, this seemingly progressive approach is actually a species of unjust protectionism. Debated in both domestic and transnational public spheres, the first position finds support among those who advocate the pursuit of justice through democratic politics at the level of the territorial state, while the second is championed both by proponents of global justice and by free-marketeers. Meanwhile, corporations and states dispute related issues in international legal arenas. For example, a North American Free Trade Agreement arbitration panel hears arguments from a US-based multinational, which contends that Canada's relatively stringent environmental and labour laws constitute an illegal restraint on trade. The US representative on the three-judge panel finds for the corporation, on free trade grounds. The Canadian representative finds against, invoking the self-government rights of the Canadian citizenry. The Mexican representative casts the deciding vote: finding for the corporation, and thus siding with

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2 Spectrum news, NY1, by David Mendez Nationwide "Labor movement seeks rise in 2023 despite economic uncertainty"https://ny1.com/nyc/all-boroughs/news/2023/01/21/labor-movement-seeks-rise-in-2023-despite-economic-uncertainty published 2:26PM ET JAN. 23, 2023.

3 https://news.cornell.edu/stories/2023/02/us-labor-strikes-52-2022-worker-activism-rises

4 https://www.pbs.org/newshour/economy/labor-movements-are-seeing-historic-victories-this-year-can-unions-keep-up-the-momentum

5 According to the US Customs and Border Protection Agency, The North American Free Trade Agreement (NAFTA) was established to create a free-trade zone in North America, eliminating most tariffs and other trade barriers on products and services passing between the United States, Canada, and Mexico. The agreement, which came into force on January 1, 1994, aimed to increase commerce and investment across the three countries, making it easier and less expensive for U.S. companies to do business in Mexico and Canada and vice versa. Goods could qualify for duty-free status under NAFTA's rules of origin, promoting the production and exchange of goods produced within the signatory nations. To read more on this: https://www.cbp.gov/trade/north-american-free-trade-agreement#:~:text=North%20American%20Free%20Trade%20Agreement%20(NAFTA)%20established%20a%20free%2D,produced%20by%20the%20signatory%20nations NAFTA was replaced by The U.S.-Mexico-Canada Agreement (USMCA), that entered into force on July 1, 2020.

> the United States, he invokes poor nations' right to development. At the same time, however, the legitimacy of these proceedings is disputed. In transnational civil society, demonstrators protest against NAFTA, the World Trade Organization, and other governance structures of the global economy. Pronouncing these structures unjust and undemocratic, activists meeting at the World Social Forum debate the contours of an alternative "globalisation from below". (Fraser, 2017, 52)

This is an example of what Nancy Fraser refers to as "abnormal justice", the locus of argument and the topography of debate are all an object of dispute. Everything is up for grabs: the *what*, the *who* and the *how* of justice. Deep disagreement about who is entitled to address claims, to whom, concerning what; where and how such claims should be vetted; and who is obliged to redress them, if and when they are vindicated.

In certain contexts, public discussions on justice may adopt the appearance of regular discourse, although vehement disagreements regarding the specific requisites of justice in particular instances persist among participants, and have the potential to lead to situations of *everyday extremism*. Despite these disagreements, there are fundamental shared presumptions concerning the essence of a coherent justice claim. These presumptions pertain to the ontological aspects of authorised claim-makers (typically individuals) and the appropriate authority to seek remedies (usually a territorial state).

Additionally, there exists a mutual understanding about the scope of interlocutors to whom justice claims should be addressed (typically the citizens of a defined political community) and the delineation of whose interests and concerns merit consideration (similarly). Furthermore, the disputants hold social-theoretical assumptions concerning the domain in which questions of justice can cohesively arise (often the economic realm of distribution) and the social divisions that can harbour injustices (commonly related to class and ethnicity). Within these contexts, where individuals involved in justice debates share a common set of underlying assumptions, their conflicts assume a recognizable and predictable structure. These conflicts are shaped by organising principles and exhibit a discernible grammar, defining what may be termed as "normal justice".

Nevertheless, it remains doubtful that justice discourse ever fully conforms to the description of normality outlined above. Real-world contexts seldom confine public debates about justice strictly within the boundaries set by a specific set of constitutive assumptions, and can thus almost be considered as uneasy contexts by default. They may unravel or continue peacefully. The possibility of every participant sharing all assumptions in such debates is improbable. When circumstances appear to approach normality, it raises suspicion that this semblance might result from suppressing or marginalising dissenting voices.

Despite these reservations, the concept of "normal justice" retains significance. Justice discourse can be considered normal as long as public dissent and disobedience to its constitutive assumptions remain contained. As long as deviations are isolated incidents or appear as anomalies, without accumulating to disrupt the discourse, the public-sphere conflicts over justice maintain a recognizable and "normal" structure.

However, present-day debates about justice often exhibit a more unrestrained nature. In the absence of a unifying force from shared presuppositions, they lack the structured shape characteristic of normal discourse. This is particularly evident in informal contests over justice in civil society, where diverse perspectives and divergent views prevail without a cohesive framework to guide the discussions towards a desired outcome.

The aim of this work package is to create new pathways within democracies, thus simultaneously strengthening democratic capacity and attuning extremism. It seeks to analyse how human rights and protections combined across socio-political contexts might result in different pathways, emphasising how oftentimes it is precisely the lack of regulation of rights that creates volatile and unpredictable contexts, belongings and outcomes. In certain situations, where integrative institutional, legal, and policy frameworks are put into effect, the outcome might be transformative and promote freedom of expression and democratic consolidation. In the opposite situations, where regulations expand the socio-political space only for selected groups, mutual resentment, distrust and fear prevail, limiting the outcome to continued rejection.

This case serves an invaluable purpose, since its potential outreach extends beyond resolving a particular dispute, but rather drawing attention and precision to what might otherwise be vague ideas. The case's complexity and multiple layers involved in understanding it, allow us to grasp all the relevance of Fraser's theoretical framework and the ways in which it adds nuance and clarity to modern day justice claims and the RRP. The multifaceted nature of the dispute, involving labour standards, environmental regulations, and international trade, provides a rich terrain for applying Fraser's emphasis on the normative weight of participation in politics. The transnational dimension aligns with Fraser's call to move beyond the Westphalian framework, making it an apt choice for theoretical exploration.

It is also illustrative of struggles between a European identity and class identity, in other words - the tension between cosmopolitanism and socialism.

Context, Belonging, Outcome

This case represents an ideal typical movement through the RRP, from a very common uneasy context, marked by heightened belonging, that then leads to a transformative outcome creating new pathways within democracy. The understanding of this movement is helped by the theoretical framework providing further insight into new forms of justice claims and their potential for both transformative and rejection outcomes (or anywhere in between).

The **context** is uneasy, marked by diverse and conflicting perspectives on justice that transcend national and transnational boundaries. Disputes over labour standards, environmental regulations, and trade agreements create a complex and uneasy backdrop. The clash between developed and developing nations, along with the involvement of corporations and states, adds layers of intricacy to the context.

Heightened **belonging** is evident in the intensity of debates and conflicts within transnational civil society. Activists engage in protests against global governance structures, emphasising divergent interests and concerns. The heightened belonging within their respective spheres amplifies the complexity of the disputes, contributing to a multifaceted understanding of justice.

Transformative **outcomes** manifest as the disputes transcend the boundaries of conventional justice discourse. The contested nature of the arguments and the involvement of diverse actors in transnational civil society further challenge the structured shape characteristic of "normal justice". The transformative outcome signifies a paradigm shift in the conceptualization and pursuit of justice in a globalised world.

Synthesis of Rights/Regulations Pathway

The synthesis involves an in-depth exploration of the *rights-regulation pathway* not only within the hypothetical case or the current labor movements in the United States, but also simultaneously within the RRP and Fraser's theoretical framework. The case illuminates the rights-based approaches adopted by labour unions, the regulatory dimensions in international legal arenas, and the transformative outcomes shaping the discourse. Fraser's emphasis on overcoming the Westphalian framework resonates with the global nature of the dispute, underscoring the need for new paradigms in conflict resolution, as the current ones open pathways in the socio-political space only for selected groups, thus risking resentment, distrust and fear prevailing, limiting the outcome to continued rejection.

The case revolves around a contentious debate on social justice, with labor unions in developed nations pushing for equitable labor practices by obstructing imports that do not meet adequate production standards. These unions argue that such measures are crucial to ensuring fair working conditions globally and to preventing the exploitation of workers in less economically developed settings. However, this stance is met with criticism from various entities representing labor forces in developing countries. These critics label the actions of the developed nations' unions as a form of unjust protectionism. They contend that these measures, while ostensibly aimed at promoting fair labor practices, actually serve to hinder the economic opportunities of workers in poorer nations by restricting access to lucrative markets. This complex dynamic underscores a broader conversation about the balance between advocating for ethical labor standards and fostering economic growth in regions that rely heavily on exports to developed countries, while depicting all the potential of uneasy contexts with heightened belongings.

Conclusion

Cases such as these shed light on a broader issue facing political theorists and policy-makers as they attempt to elaborate social justice questions „in the midst of current global political economic changes. For example, Nancy Fraser has attempted to elucidate the normative weight of participation in politics as underscored by her social theory, moral philosophy, and social ontology.

In conclusion, the case analysed through the prism of Nancy Fraser's political theory unveils a multifaceted understanding of justice that extends beyond traditional boundaries. The dynamic and transformative nature of political struggles in contemporary society challenges conventional notions of justice, prompting a reevaluation of participatory norms in the pursuit of justice. The uneasy context, heightened belonging, and transformative outcome, underscore the evolving landscape of justice discourse in a globalised world.

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CASE #11

Two Visions of Populism

Prism case analysis

This case focuses on the mayoral meeting between Amsterdam and Barcelona, specifically examining their commitment to sustainable tourism and the clash between regulatory and rights-based populism. The context is framed as exclusionary, with both resentful and persistent belongings and modus vivendi outcomes. The methodological choice centres on analyzing the mayoral discourse, and the relevance of Barcelona's socio-political history adds depth to the examination. The case concludes by seeking to contribute valuable insights to the discussion surrounding the future of left-wing politics. It explores the potential strengths and limitations of regulatory populism and rights-based populism, drawing parallels with movements like *Podemos* and *Syriza*. The synthesis underscores the delicate balance required for populism to positively contribute to democratic capacity and democratic ideals.

Case	Context	Belonging	Outcome
Two Visions of Populism	Exclusionary	Resentful / Persistent	Modus vivendi

Case Overview

Populism is a complex phenomenon with no clear definition but whose presence in contemporary politics is hard to deny. This case delves into this intricate phenomenon and underscores the significance of comprehending the variety of meanings attributed to the term - a "conceptual cacophony" (Riedel, 2017) increasingly mobilised and weaponized in media and politics.

The very interpretation of the term "populism" seems subjective, with its definition contingent upon the context in which it is employed. Attitudes toward populism depend directly on what meaning we attribute to the term. More and more often, the media employs the word "populism" in a pejorative way – to accuse a politician or to discredit a political decision. Thus, "populism" becomes a rhetorical tool in a power struggle, a part of everyday extremism, and a way of eliminating political opponents. From this point of view, populism itself is not as dangerous as the label. However, populism can also be viewed from another angle – as demagogy. With the development of the mass media, it has become easier to draw people into politics and win them over to one's side, often through manipulation. Understood as a synonym of demagogy, populism becomes an element of an unfair power struggle that undermines the democratic tradition. On the other hand, many scholars[1] distinguish between "populism" and "demagogy", and see this struggle for power as the best manifestation of the democratic spirit.

Thus, populism can be seen either as a rhetorical tool wielded in power struggles or as demagogy, employing emotional and irrational appeals to manipulate the populace. It often revolves around the contrast between the "pure people" and the "corrupt elites" (Brubaker, 2017), or the rational, calculated centre and the passionate, irrational extremes on both spectrums (left and right). Some argue that populism is relatively close to demagogy and define it as a cynical emotional-irrational appeal to the majority that is "longing for simple solutions to complicated problems" (Riedel, 2017), others emphasise the similarities between populism (*vox populi* - the voice of the people) and democracy: both phenomena claim to express the people's will, since the basic principle of democracy is to speak and act on behalf of the people (Brubaker, 2017).

[1] Wendy Brown is notable here, as well as Chantal Mouffe and Ernesto Laclau.

This study elucidates populism as possessing such democratic attributes, at its core, starting from Ernesto Laclau's definition of populism as a strategy that seeks to build a political identity distinct from the established elites, a way of creating a movement that can challenge the dominant political forces (Laclau, 2005). Simultaneously acknowledging that populism can yield undemocratic or even anti-democratic outcomes when it scrutinises and challenges the principles of liberalism and pluralism. The present study also delineates the principal arguments surrounding the interplay between populism and authoritarianism, delving into the potential peril of democratic regression in the event of authoritarian populism ascending to political dominance.

The emergence of populism in democratic nations can be attributed to various factors, including the increasing individualization of people, the propagation of protectionist populism, and the utilisation of emotional triggers and fears. Brubaker speaks of a "perfect storm" of several factors that have made possible the spread of populism in the democratic world: he cites the individualization of people as the possibility to bypass intermediary institutions and not depend on political parties by appealing directly to the people, and campaigning that today can be done on social media such as Twitter (X) or other platforms – which creates a sense of closeness, openness, and transparency for the potential electorate of the politician.

In recent decades, there has been a growing interest in exploring left-wing populism as a viable approach to politics. Scholars like Ernesto Laclau and Chantal Mouffe have played a significant role in shaping this discourse by emphasising the importance of emotions and proposing a discursive approach to populism. Their ideas have been further developed by theorists from the "Essex School", such as Stavrakakis, Panizza, and Katsambekis. However, more recent contributions to the discussion have introduced "plebeian" theories of democracy, focusing on materialist and institutional aspects, with scholars like Vatter, McCormick, Vergara, and Fraser leading the charge.

Nonetheless, the democratic core of populism has faced scrutiny from theorists like Müller and Urbinati, who argue that populism may undermine the very pursuit of true democracy. Additionally, the recent nationalist tendencies observed in left-wing movements, typified by Germany's *Aufstehen!* (Stand Up!), have prompted reflections on the potential exclusionary aspects of left-wing populism, particularly concerning marginalised groups like migrants.

This study takes the regulation of cities[2], precisely major European cities, as an example of left wing populism, depicted in the commitment towards greater regulation.

Taking the recent mayoral meeting between Amsterdam and Barcelona, as the starting point, specifically focusing on their commitment to sustainable tourism.

Barcelona's evolution into a preeminent global metropolis is emblematic of a multifaceted narrative that intertwines historical legacy, socio-political dynamism, and urban transformation. The catalytic 1992 Olympic Games heralded a new epoch for Barcelona, not merely by altering its urban landscape but by repositioning the city on the world stage, catalyzing a significant influx of international tourism[3]. This period of rejuvenation and global recognition coincided with, and perhaps even fueled, a resurgence in Catalonian nationalist sentiment, seeking autonomy or independence from Spain, reflecting a deeply rooted historical narrative of regional identity and resistance[4].

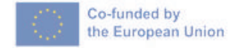
Parallel to these developments, the enduring shadows of the Franco regime and the Spanish monarchy linger, serving as a constant reminder of the country's tumultuous past and the ongoing struggle for democratic consolidation and identity. Against this complex backdrop, Barcelona becomes a prime locus for examining the dichotomies inherent in contemporary populism. On one hand, regulatory populism emerges, characterized by its accountability to the populace and a commitment to addressing the needs and aspirations of the citizenry. On the other, a rights-based populism takes shape, aligning more closely with corporate interests and traditional notions of sovereignty, often at odds with the grassroots demands for greater autonomy and social justice.

This juxtaposition within Barcelona's socio-political landscape offers a unique lens through which to explore the broader implications of populism in the twenty-first century. It underscores the tension between governance that seeks to empower the people and governance that upholds established hierarchies and economic interests, all within the context of a city that continues to navigate its past while looking towards a future marked by both challenges and possibilities.

[2] https://www.citiesalliance.org/

[3] Experts at the University Oberta de Catalunya have done extensive research into the impact that the Olympics had on the city and the legacies that the event inevitably left in many areas. More on this topic: https://www.uoc.edu/en/news/2022/180-thirty-years-1992-olympic-games-Barcelona

[4] https://foreignpolicy.com/2023/05/20/catalonia-independence-movement-spain-municipal-general-elections/



Method and Case Justification

On June 10, 2022, the Mayors of Amsterdam and Barcelona, Femke Halsema and Ada Colau, held a meeting to discuss the effects of mass tourism and joint strategies to maintain and improve the quality of life of the city's residents, thus reaffirming their dedication to fostering sustainable tourism and addressing the challenges posed by overcrowding[5]. This initiative strengthens the already existing collaboration between the two cities, through their commitment to uphold regulatory standards and ensure the sustainability of tourism post-pandemic. Additionally, the collaboration extends beyond local efforts, as both leaders advocate for coordinated actions among European cities to address shared challenges, including airport limitations and promoting alternative travel modes. Barcelona's mayor, Ada Colau, has announced the reinstatement of stringent measures targeting illegal tourist flats, successfully reducing their proliferation from approximately 6,000 to negligible numbers through rigorous enforcement[6], thus asserting that economic activity works better if there is regulation.

Joan Miquel Gomis López, a faculty member at the University Oberta de Catalunya (hereon UOC) Faculty of Economics and Business, asserts that the Olympic Games induced a pivotal shift in tourism, primarily seen in the transformation of tourist profiles. Substantial evidence supports this claim. In 1990, merely 22% of visitors arrived in Barcelona for leisure, with the majority being work-related. Contrastingly, contemporary trends reveal a reversal, with holiday tourism now dominating. Furthermore, the overnight tourist count surged from 1.7 million in 1990 to nearly 10 million in 2019, a tripling within a few years and a noteworthy change before the pandemic.

During the meeting, the majors further deliberated on collaborative initiatives, focusing on the regulation of city centre hotels and the concerted effort to combat the proliferation of illegal tourist accommodations. The mayors jointly advocated for the implementation of European regulations targeting illegal tourist lodging and voiced their endorsement for measures restricting airport activity. The discussions extended to encompass broader issues such as the shared challenges in digital transition, sustainable tourism practices, security concerns, and the pressing need for affordable housing solutions.

The aim of this work package is to create new pathways within democracies, thus simultaneously strengthening democratic capacity and attuning extremism. It seeks to analyse how human rights and protections combined across socio-political contexts might result in different pathways, emphasising how oftentimes it is precisely the lack of regulation of rights that creates volatile and unpredictable contexts, belongings and outcomes. In certain situations, where integrative institutional, legal, and policy frameworks are put into effect, the outcome might be transformative and promote freedom of expression and democratic consolidation. In the opposite situations, where regulations expand the socio-political space only for selected groups, mutual resentment, distrust and fear prevail, limiting the outcome to continued rejection.

When evaluating this case study we could also extend the interrogation from the effects of these regulatory measures on European cities to a questioning on the wider effects of regulatory populism capable of expanding the socio-political space in a way that would include the majority and have the potential to avoid critique and exclusion of the European Union, as in the cases of Brexit, Frexit, and most recently Nexit.

The methodological choice for this case centres on the clash between regulatory and rights-based populism, exemplified in the mayoral discourse. Barcelona's intricate socio-political history, coupled with the global rise of left populism and reactions against monarchy, not only adds depth to the analysis but also positions the case as a microcosm of broader populist dynamics. Similar instances, such as Venice and Amsterdam grappling with tourism challenges, amplify the relevance and applicability of the chosen case, and allows to analyse in-depth an example indicative of a broader phenomena.

Another noteworthy occurrence that fits into this framework as well is climate regulation, identified as a driver of support for populism, with calls for a "proportionality test" of new policies to ensure they do not inadvertently fuel populist sentiments[7].

Context, Belonging, Outcomes

In the complex interplay of urban development, environmental sustainability, and social equity, the dynamics of context, belonging, and outcomes emerge as pivotal themes. These elements frame the ongoing debate and actions surrounding urban policy and its impacts on communities and their environments. At the heart of this discussion lies a palpable tension

[5] https://www.ft.com/content/334c8e70-8434-439a-b181-f07c5495af4c

[6] https://ajuntament.barcelona.cat/turisme/en/noticia/barcelona-and-amsterdam-share-strategies-to-improve-tourism-management_1318301

[7] EU Parliament chief Roberta Metsola called for a moratorium on regulation and opposed a plan to improve biodiversity https://www.ft.com/content/16f30328-8031-4486-b0bf-2a934e6e8b1b

between two divergent objectives: the pursuit of profit maximization by some, and the endeavor by others to implement stricter regulations aimed at curbing uncontrolled growth and mitigating its negative repercussions on both the natural environment and the well-being of urban residents.

The context within which these issues unfold is inherently exclusionary, creating a stark division between stakeholders. On one side of this divide are those who prioritize economic gains, often at the expense of environmental health and social welfare. Opposing them are advocates for stringent regulatory measures designed to halt the unchecked expansion that threatens ecological balance and the quality of life for city inhabitants. This dichotomy underscores the challenges of finding a harmonious path forward that satisfies both economic aspirations and sustainability goals.

Belonging, or the sense of being part of the decision-making process, varies significantly across individuals and groups. Some feel alienated, viewing the situation with resentment due to perceived powerlessness to effect change. Others remain steadfastly engaged, believing in the potential to influence outcomes through persistent advocacy and action. This spectrum of engagement reflects the diverse attitudes and strategies adopted by different stakeholders in response to the ongoing challenges.

Currently, the prevailing outcome is a temporary compromise—a modus vivendi—that allows for coexistence amidst differing views and objectives. However, this status quo also harbors the possibility for more profound, transformative changes. These could manifest both within individual cities and on a broader scale through collaborative networks like Eurocities. By fostering dialogue and cooperation, there is a tangible opportunity for these urban centers to lead the way in achieving sustainable development goals that reconcile economic interests with the imperative to protect the environment and enhance the quality of life for all residents.

Synthesis of Rights/Regulations Pathway

The synthesis of rights and regulatory pathways within the context of regulatory populism in the European Union highlights a nuanced discourse. Left-wing populist movements, exemplified by *Podemos* in Spain and *Syriza* in Greece, showcase how populism can foster hope and support for progressive causes, embodying principles of equality and horizontality similar to those seen in initiatives in Barcelona and Amsterdam. These movements illustrate the potential of inclusionary left-wing populism to mobilize support while maintaining democratic ideals. The interplay between regulatory populism and democracy is intricate, revealing that while populism can support democracy by promoting inclusivity and egalitarianism, it risks authoritarian tendencies if not carefully balanced. This balance is crucial for populism to enhance democracy without undermining it through rights-based authoritarian pitfalls. Thus, the exploration suggests that populism, when aligned with left-wing principles and focused on inclusivity and equality, can indeed serve as an effective tool for the protection and advancement of democracy.

Conclusion

Within the Eurocities network framework, Barcelona and Amsterdam lead a coalition advocating for innovative tools and regulations from the European Commission to empower tourist-heavy urban areas. Their collaborative efforts focus on managing tourism accommodations, overseeing cruise ship operations, and establishing taxation policies to ensure positive contributions to destinations. The objective is to address issues such as overcrowding, benefit local economies, and safeguard heritage areas, fostering reciprocity with host cities.

These initiatives shed light on the intricate relationship between populism and city regulations. Challenges like regulatory rollbacks, targeting urban movements, and the influence of populism on local governance, labor, and climate policies are highlighted. This report contributes valuable insights to the discussion on the future of left-wing politics, aiming to deepen understanding of the strengths and limitations of each approach. The goal is to facilitate informed dialogue among policymakers, academics, and activists for a more inclusive and radically democratic society.

This collaborative effort between the cities and the European Commission highlights the intricate interplay between local and supranational entities in addressing the multifaceted challenges posed by tourism. The initiatives aim not only to regulate the tourism industry but also to ensure its positive contributions to local economies and cultural preservation.

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CASE #12

New Neurorights or Greater Governance of Neurotechnologies?

Prism case analysis

This case examines the emergence of neurorights in the context of the growing influence of neurotechnologies. Initially fueled by optimism, recent trends have given way to increased concerns, leading to the proposal and debate around the concept of neurorights. The case explores the evolving landscape of neurotechnologies and the consequent push for neurorights, which has generated substantial debate. The choice of Chile as a case study is driven by its groundbreaking constitutional amendment, making it the first country to legislate on neurorights. The methods employed in these initiatives and the rationale behind their choice shed light on their role in shaping the global discourse on neurorights. The case elucidates the diverse actors influencing the trajectory of neurotechnologies, including international organizations, professional associations, and governmental agencies. The nuances of proposed neurorights regulations are explored, reflecting the ongoing discourse on the appropriateness of distinct legal frameworks for the cognitive domain.

Case	Context	Belonging	Outcome
New Neurorights or Greater Governance of Neurotechnologies?	Emancipatory	Heightened / Precarious	Transformative / Dialogue

Case Overview

The term neurotechnologies denotes “devices and procedures used to access, monitor, investigate, assess, manipulate, and/or emulate the structure and function of the neural systems of natural persons”[1]. It is imperative to underscore that the domain of neurotechnologies encompasses a burgeoning array of heterogeneous systems, each designed to cater to a diverse range of applications and end-users. These systems include, for instance, devices that administer electrical impulses to the brain, such as cochlear implants (a commercial success, presently benefiting more than 700,000 individuals[2]) utilised to restore auditory faculties or deep-brain stimulation (hereon DBS) systems devised to ameliorate the manifestations of Parkinson’s disease. Another category of systems, denoted as brain-computer interfaces (hereon BCIs), relies on artificial intelligence algorithms to translate cerebral activity into data employed for the operation of prosthetic apparatuses or the deduction of users’ cognitive states. Conversely, other variants of neurotechnologies are still in the investigational phase and are projected to require several years before reaching the commercial market. BCIs exemplify this latter category, wherein proof-of-concept (hereon PoC) studies have demonstrated their potential for controlling upper limb prostheses, exoskeletons, interactive video gaming systems, and various forms of assistive technologies.

In this ever-evolving landscape of technological innovation, the intersection of neuroscience and the regulatory-rights pathway is giving rise to a profound discourse on neurorights. The awareness of the necessity for governance of neurotechnologies has spurred the call for a distinct set of rights known as “neurorights”. However, the neurorights proposal has ignited

[1] OECD (Organisation for Economic Co-operation and Development), Recommendation of the Council on Responsible Innovation in Neurotechnology, OECD/LEGAL/0457, 11 December 2019, https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0457

[2] National Institute on Deafness and Other Communication Disorders, “Cochlear Implants”, n.d., https://www.nidcd.nih.gov/health/cochlearimplants.

a lively debate, reflecting on the challenges and potentials of neurotechnologies and the existing and proposed regulatory frameworks, not excluding everyday extremism and conspiracy theories.

Initially buoyed by the optimistic sentiments echoing the transformative power of the internet, as expressed by visionaries like Steve Jobs, this optimism has now encountered the intricacies of neurotechnologies, ushering in concerns that fuel the ongoing debate around neurorights. These debates span a wide array from conspiracy theories to legal and ethical concerns. Amidst a surging interest in neurotechnologies, entities ranging from corporate giants to governmental bodies and military institutions are captivated by their multifaceted applications. Simultaneously, companies like *Neuralink*[3] propel the discourse forward with *avant-garde* brain implants, offering unprecedented potential for influence. While ostensibly designed to address the challenges of paralysis, the grander aspiration is nothing short of the democratisation of augmentation, further intensifying the urgency of the neurorights discussion. *Neuralink* is developing advanced neurotechnologies, including brain–machine interface devices. The company has been working on creating devices that can be implanted into the brain to establish a direct communication link between the brain and external devices. The goal is to allow for bidirectional information flow, where the brain can both receive and transmit information. The company aims to address various applications, including medical uses and enhancements for healthy individuals. Initially, the focus has been on medical applications, such as providing solutions for neurological disorders and disabilities. *Neuralink* has expressed intentions to conduct human trials to test the safety and efficacy of its brain–machine interface technology. As with any medical device or technology involving human subjects, regulatory approvals from relevant health authorities would be required before widespread deployment. The development of brain–machine interfaces raises various ethical and societal considerations. *Neuralink*'s work has sparked discussions about privacy, consent, and the potential societal impacts of widespread use of such technologies.

A diverse spectrum of influential actors is actively shaping the trajectory of neuroscience and neurotechnologies, playing pivotal roles in their advancement, the advocacy for responsible innovation, and the establishment of governance frameworks. These actors encompass both intergovernmental and international organizations, such as the Organisation for Economic Co-operation and Development (OECD), the Council of Europe, and the United Nations Educational, Scientific and Cultural Organization (UNESCO). Additionally, professional associations, exemplified by the Institute of Electrical and Electronics Engineers (IEEE), contribute significantly to this landscape. The pursuit of research endeavors geared toward national security objectives is also evident, as evidenced by various projects under the aegis of the United States Defense Advanced Research Projects Agency (DARPA).

The analysis of the opportunities and potential risks arising from the development of neurotechnologies, along with endeavours to formulate appropriate governance structures, necessitates a nuanced consideration of the intricate ecosystem within which these technologies are cultivated. Neurotechnology systems possess the capacity to cater to diverse user demographics and serve multifarious purposes, encompassing applications in the medical and military domains as well as the creation of consumer-oriented products. Consequently, the neurotechnologies ecosystem encompasses a heterogeneous spectrum of stakeholders, including both public and private research organizations, technology-centric enterprises, healthcare service providers, public health institutions, military entities, insurance corporations, and regulatory bodies responsible for both clinical and consumer oversight. This creates a context in which the rights versus regulations tension becomes inevitable and the central locus of argumentation.

Method and Case Justification

The aim of this work package is to create new pathways within democracies, thus simultaneously strengthening democratic capacity and attuning extremism. It seeks to analyse how human rights and protections combined across socio-political contexts might result in different pathways, emphasising how oftentimes it is precisely the lack of regulation of rights that creates volatile and unpredictable contexts, belongings and outcomes. In certain situations, where integrative institutional, legal, and policy frameworks are put into effect, the outcome might be transformative and promote freedom of expression and democratic consolidation. In the opposite situations, where regulations expand the socio-political space only for selected groups, mutual resentment, distrust and fear prevail, limiting the outcome to continued rejection.

This case delves into the Chilean context, where an audacious legislative endeavour seeks to enshrine "brain rights" within its constitution, positioning the nation at the forefront of a global conversation on the ethical and legal dimensions of neuro technological advancements. The choice of case is reflective of a broader trend in neurotechnology research and development. This examination situates neurorights within the broader social, ethical, and legal milieu, with Chile emerging as a captivating case study. The nation's proactive approach in addressing the ethical and legal challenges posed by

[3] Neuralink is a neurotechnology company founded by entrepreneur and tech visionary Elon Musk. The company aims to develop brain–machine interface (BMI) technologies that have the potential to augment human cognitive abilities and address neurological conditions.

neurotechnologies positions it as a pioneer in the global conversation. The choice of Chile as a focal point sheds light on the methods employed in initiating neurorights legislation, providing critical insights into their potential implications on a global scale.

The selection of the Chilean case is based not only on its significance in illuminating the neurorights framework's evolution and impact, but precisely because of being a great example of this rights versus regulations tension. This analysis is vital for understanding the potential impact and challenges associated with regulating a rapidly advancing field. Chile's significance lies in its proactive stance, seeking to address the ethical and legal challenges posed by neurotechnologies. While some have argued that neurorights are indispensable tools to guide neurotechnology development, others call for caution. There is consensus that human interests must be protected; however, the articulation of new neurorights is not necessarily the appropriate legal tool.

The case explores the evolving landscape of neurotechnologies and the consequent push for neurorights, which has generated substantial debate. The choice of Chile as a case study is driven by its groundbreaking constitutional amendment, making it the first country to legislate on neurorights. The methods employed in these initiatives and the rationale behind their choice shed light on their role in shaping the global discourse on neurorights.

Context, Belonging, Outcomes

The concept of "neurorights" was introduced in 2017 by two independent groups: one led by Roberto Adorno and Marcello Ienca in Zurich, and the other by a team led by Rafael Yuste in the United States. This concept has since been ardently advocated for by *The Neurorights Foundation*, which champions the establishment of neurorights as a more fitting means of safeguarding the human mind. This proposition entails an expansion of the extant human rights framework, encompassing the introduction of new human rights specifically pertaining to our cognitive faculties, collectively referred to as "neurorights." In addition to this, *The Neurorights Foundation* is actively in the process of crafting a "Technocratic Oath," which is designed to constitute an ethical framework guiding entrepreneurs, scientists, companies, and investors engaged in the development of neurotechnologies.

While the notion of neurorights has garnered considerable acclaim and has even served as an impetus for legislative initiatives, the idea of extending human rights to govern matters of the mind through the codification of neurorights is not universally accepted as the most appropriate governance approach to address the inherent risks associated with neurotechnologies. Some critics contend that existing national and international legal systems already provide protection for fundamental principles such as *freedom*, *consent*, *equality*, and *privacy*, which neurorights purport to safeguard more effectively. Consequently, they raise questions regarding the necessity of creating a distinct category of human rights in this context.

Efforts to regulate neurotechnologies have transcended the purview of international foundations, organisations, and research collectives, extending to the involvement of governments worldwide, albeit to varying degrees. Among these endeavors, the most prominent is the Chilean constitutional amendment designed to legally safeguard the neurorights of Chilean citizens. In December 2020, the Chilean Congress, after joint deliberation with leading international scholars and policy makers, and the strong support of the *Columbia University Neuro Rights Initiative* became a pioneer of neurorights governance. Highlighting the need to protect human dignity, Congress approved a reform of Article 19 of the Chilean Constitution to include the right to neuroprotection. Drawing inspiration from *The Neurorights Foundation*'s initiatives, this amendment, having secured passage in the Senate and subsequent enactment by the Chilean president, serves as a legislative instrument to protect mental privacy and free will. Furthermore, it articulates the principle of non-discrimination in granting access to neurotechnology. An additional legislative proposal, currently under review by the Chilean Congress, seeks to extend regulatory oversight to neurotechnology devices, including those intended for commercial and recreational purposes, thereby subjecting them to the same level of regulation as medical devices. This proposal also posits the definition of neural data as a constituent of the human body, thereby proscribing its sale and acquisition.

We have explored how these initiatives fit into the broader social, legal, and ethical landscape, along with the intended consequences they aim to bring about, as well as their place in the regulatory-rights pathway. The debate around neurorights aims to forge innovative pathways within democratic systems, concurrently bolstering democratic resilience and mitigating extremism. The outcome remains uncertain and country to country specific, dependent mostly on the option to follow the Chilean example with the addition of more rights, or tighter regulations. The core objective involves a nuanced analysis of how the amalgamation of human rights and protective measures across diverse socio-political landscapes can yield divergent trajectories. The focal point underscores the profound impact of unregulated rights, which often precipitates volatile contexts, identities, and outcomes. In contexts where comprehensive institutional, legal, and policy frameworks are implemented, the potential for transformative outcomes that foster freedom of expression and democratic consolidation is pronounced.

The **context** is **emancipatory**, described mostly by optimism and curiosity, and progressive tendencies, illustrative of modes of opposition which have led to greater integration, policy change and social justice

The **belonging** is **heightened**, but with non-negligible risks, since what was initially, and in some places still is, a heightened belonging, has become increasingly **precarious** as demonstrated by the wave of legislation on brain rights. Digital belonging in particular, represents a shift from heightened (sense of greater inclusivity and opportunity) to suspicion (conspiracy theories) and fear.

Neurorights aim to establish **transformative outcomes**, but can end up in **dialogue**, or even **precarious** outcomes. The policy is still very new and its stated aims are not entirely clear.

This comprehensive approach not only broadens our understanding of neurorights but also contributes to the broader discourse on human rights, technology, and democratic governance. The case explores the transformative potential of neurorights, emphasizing the delicate balance between emancipatory ideals and the precarious nature of digital belonging. The anticipated outcomes of the regulatory measures are presented as transformative or conducive to fostering dialogue.

Synthesis of Rights/Regulations Pathway

Neurorights talk is framed within the context of individual rights protection from powerful entities, be it big companies or states engaged in data collection. Our case emphasizes the definitional challenges associated with terms like “free will,” “mental integrity,” and “psychic continuity,” underlining the necessity for agile legislation capable of evolving with technological advancements. The narratives surrounding neurorights have been framed largely as a question of protecting individual rights from big companies and states and big data collection. Neurorights can be defined as a new international legal framework for human rights specifically aimed at protecting the brain and its activity as neurotechnology advances.

The case concludes by highlighting the imperative for effective regulation in the realm of neurotechnologies. It underscores the need to view regulatory powers as essential, move beyond an exclusive emphasis on rights, and establish mechanisms for effective and democratic enforcement of regulations. The Chilean case serves as a poignant example, prompting global reflections on the intricate interplay between technological innovation, individual rights, and the necessity for responsive governance in this rapidly evolving landscape.

In order to regulate, we need to: 1) see the regulatory powers as essential to the process; 2) move away from an overwhelming emphasis on rights; 3) figure out how we can effectively and even democratically enforce those regulations.

Conclusion

While the Chilean approach has received commendation for pioneering neurorights protection, it has also elicited certain criticisms. Some detractors contend that the implementation of this regulatory framework may potentially conflict with established disability rights. Others argue that the regulatory approach is both excessively intrusive and premature in relation to the technological maturity and existing comprehension of some of the concepts that the legislation seeks to govern. For instance, the concept of “free will” lacks a universally accepted definition, rendering legal efforts to protect it open to questioning. Similarly, concepts like “mental integrity” and “psychic continuity” are complex and somewhat ambiguous. A stringent interpretation of the former, for example, might inadvertently impede the practice of neurosurgery. Critics also assert that enacting such legislation at an early stage in the technology’s development could hinder innovation. It is important to emphasize that these criticisms do not inherently suggest that all “hard-law” approaches to governing neurotechnologies should be abandoned. Rather, they underscore the necessity for legislative efforts to remain adaptable and agile, capable of adjustments as technology advances and our comprehension of its ramifications evolves. This approach ensures that legislation remains resilient to future developments, while preventing undue constraints on innovation management.

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CASE #13

Affirmative Action

Prism case analysis

This case delves into the recent civil rights investigation initiated by the United States Department of Education into Harvard University's legacy admissions policy. Following the Supreme Court's decision to curtail the use of affirmative action in higher education, concerns have arisen about potential discrimination based on wealth, and privilege. Legacy preferences, which provide an advantage to applicants with family ties to the institution, have been a long-standing practice in selective college admissions. However, recent criticism against this practice has intensified, particularly following the Supreme Court's decision to dismantle the use of race-based affirmative action in admissions.

Case	Context	Belonging	Outcome
Affirmative Action	Non-conflictual	Persistent	Modus vivendi

Case Overview

In the wake of the United States Department of Education's civil rights investigation into Harvard University's legacy admissions policy, this case explores the complex intersection of legacy preferences, affirmative action policies, and potential discrimination within higher education. With the recent curtailment of affirmative action by the Supreme Court, heightened scrutiny has been directed towards legacy admissions, raising concerns about socioeconomic bias and privilege. This case seeks to unravel the intricate dynamics surrounding legacy admissions, shedding light on the evolving landscape of college admissions practices and the broader implications for equality and inclusivity. The investigation explored allegations made by three liberal groups that Harvard's practice of showing preference for the relatives of alumni and donors discriminates against Black, Hispanic and Asian applicants in favor of white and wealthy students who are less qualified. This investigation could potentially challenge the prevailing admissions practices and evoke broader debates about privilege and diversity in education.

Affirmative action is defined as a set of procedures designed to: eliminate unlawful discrimination among applicants[1], remedy the results of such prior discrimination, and prevent such discrimination in the future. In modern American jurisprudence, it typically imposes remedies against discrimination on the basis of (at the very least) race, creed, color, and national origin. While the concept of affirmative action has existed in America since the 19th century, it first appeared in its current form in President Kennedy's Executive Order 10925 from 1961: "The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin." Since 1965, government contractors have been required to document their affirmative action programs through compliance reports, to contain "such information as to the practices, policies, programs, and employment policies, programs, and employment statistics of the contractor and each subcontractor" (Executive Order 11246)[2].

[1] Applicants may be seeking admission to an educational program or looking for professional employment.

[2] Enforcement is conducted by the U.S Department of Labor's Office of Federal Contract Compliance Programs. Recipients of federal funds are required to document their affirmative action practices and metrics. Educational institutions which have acted discriminatorily in the past must

Employers who contract with the government or who otherwise receive federal funds are required to document their affirmative action practices and metrics. Affirmative action is also a remedy, under the Civil Rights Act of 1964, where a court finds that an employer has intentionally engaged in discriminatory practices.

The Equal Employment Opportunity Commission, created by Title VII of the Civil Rights Act of 1964, enforces the following employment anti-discrimination laws:

- Equal Pay Act of 1963
- Title VII of the Civil Rights Act of 1964 (race, color, religion, national origin)
- Age Discrimination in Employment Act of 1967 (people of a certain age)
- Rehabilitation Act of 1973, Sections 501 and 505 (people with disabilities)
- Titles I and V of the Americans with Disabilities Act of 1990
- Civil Rights Act of 1991:

The Office of Civil Rights enforces the following education anti-discrimination laws:

- Title VI of the Civil Rights Act of 1964 (race, color, religion, national origin)
- Age Discrimination Act of 1975
- Title IX of the Educational Amendments of 1972 (gender)
- Section 504 of the Rehabilitation Act of 1973 (people with disabilities)
- Title II of the Americans with Disabilities Act of 1990
- The Boy Scouts of America Equal Access Act (Section 9525 of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001) (equal access for outside community groups to school facilities during non-school hours)

Supreme Court Decisions[3] Related to Education:

- Brown v Board

  In Brown v. Board of Education, 374 U.S. 483 (1954), the Supreme Court held that public schools may not exclude minority students from white schools by sending the minority students to a school that separately services minority students. This decision acted as a precursor to many of the education-based affirmative action cases in the Supreme Court which followed in later years.

- Regents v. Bakke

  In Regents of the University of California v. Bakke, 438 U.S. 265 (1978), the University of California's Medical School at Davis reserved 16 spots in each entering class of 100 students for minority students. The Court did not hold a majority opinion, but the main legal takeaway from Bakke is that the Constitution prohibits a school from having racial quotas.

- Gratz v. Bollinger

  In Gratz v. Bollinger, 539 U.S. 244 (2003), the University of Michigan's Undergraduate Admissions Office used a points-based system in its admission process. The office added points for an applicant who was an underrepresented minority. The Supreme Court held that the race-based methods must use strict scrutiny. The Court held that the generalization of "underrepresented minorities" failed the narrow tailoring requirement that strict scrutiny imposes.

- Grutter v. Bollinger

  In Grutter v. Bollinger, 539 U.S. 306 (2003), the University of Michigan Law School Admissions Office

take affirmative action as a remedy.

[3] The list is in chronological order, and non-exhaustive.

used race in its admissions process. However, the school did not assign points based on race. Instead, the school used race as one of a number of factors; race could not automatically result in an acceptance or a rejection (which contrasts with Gratz, in which those 20 points used in Gratz could have resulted in admission or rejection).The Court held that this plan is narrowly tailored enough to satisfy strict scrutiny because the "program is flexible enough to ensure that each applicant is evaluated as an individual and not in a way that makes race or ethnicity the defining feature of the application . . . The Law School engages in a highly individualized, holistic review of each applicant's file, giving serious consideration to all the ways an applicant might contribute to a diverse educational environment." In a dicta contained in the majority opinion, Justice Sandra Day O'Connor[4] wrote, "The Court expects that 25 years from now, the use of racial preferences will no longer be necessary to further the interest approved today."

- Fisher v. Texas

  In Fisher v. University of Texas, 579 U.S. (2016), the University of Texas at Austin used a Top Ten Percent Law, in which any student who graduated in the top 10% of their high school class would be granted admission to the University. If an applicant was not in the top 10% of his or her high school class, the University would create an Academic Index (AI) and a Personal Achievement Index (PAI) for each student.

Method and Case Justification

This case's selection stems from its instrumental role in shaping the ongoing discourse on admissions equity and diversity in education, particularly in the aftermath of the Supreme Court's landmark decision to curtail affirmative action practices.

In 1965, President Lyndon B. Johnson delivered a groundbreaking address at Howard University, a bastion of Black academic excellence in Washington, D.C. This pivotal moment marked the genesis of affirmative action, a visionary framework designed to dismantle barriers hindering African Americans from accessing employment and higher education post-segregation. President Johnson's resonant words, emphasizing the need to address historical injustices, set the stage for a multifaceted exploration of affirmative action's evolution. Subsequent to this landmark declaration, institutions of higher learning embraced varying iterations of racial preference policies. However, the landscape shifted dramatically on June 29, 2023, when the United States Supreme Court, in a momentous decision, deemed affirmative action in violation of the 14th Amendment of the United States' Constitution, safeguarding equal protection under the law.

Harvard University, renowned for academic prowess, found itself thrust into the limelight in 2023. The US Department of Education initiated a civil rights investigation into its legacy admissions policy, a time-honored tradition granting preferential treatment to applicants with familial ties. The recent termination of race-based affirmative action intensified scrutiny on alternative admission practices, placing Harvard's legacy preferences under a critical lens.

The inquiry into one of the richest and most prestigious universities has attracted both national and international attention. The Education Department's Office of Civil Rights has powerful enforcement authority that could eventually lead to a settlement with Harvard or trigger a lengthy legal battle like the one that led to the Supreme Court's decision to severely limit race-conscious admissions, reversing a decades-long approach that had increased chances for Black students and those from other minority groups. The Education Department's Office for Civil Rights confirmed that there is an open investigation of Harvard under Title VI of the Civil Rights Act of 1964. The law prohibits discrimination on the basis of race, color or national origin in any program that receives federal funding. The complaint was filed on behalf of the African Community Economic Development of New England[5], the Greater Boston Latino Network[6] and the Chica Project[7].

Analyzing the majority argument reveals a familiar terrain marked by contradictions, instabilities, and historical vulnerabilities within the doctrine of affirmative action. The court's pivot in evaluating these questions signals a discernible shift toward a more stringent form of scrutiny, raising questions about the evolving nature of judicial perspectives.

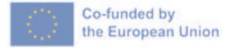
The Supreme Court's verdict rests on the assumption of a colorblind societal framework, positing equal opportunities for

[4] Justice O'Coonor was a Former Associate Justice of the Supreme Court of the United States.

[5] An African-led, grassroots organization focused on educational issues and programs.

[6] A non-profit organization empowering Latino communities through education, advocacy, and leadership development in the Greater Boston area.

[7] A non-profit organization working to close the opportunity divide for young Women and Girls of Color, with the goal to develop the next generation of diverse leaders.



all children. However, an extensive body of scientific research spanning decades challenges this assumption, highlighting the influence of privileged socioeconomic status on crafting an appealing curriculum vitae.

Delving deeper into the admission process, artificial intelligence played a pivotal role. The AI, factoring in SAT scores, academic performance, and the Personal Achievement Index (PAI) evaluating essays and a comprehensive file review, including leadership, work experience, extracurricular activities, and "special characteristics." Notably, race was included as one such characteristic.

The Court's nuanced analysis deemed the University's use of race a "factor of a factor of a factor," constituting a narrow element within the holistic review process, meeting strict scrutiny standards. The Court's assertion of a compelling interest in "obtaining the educational benefits that flow from student body diversity" provided a constitutional anchor to the use of race in admissions, ultimately shaping the legal landscape surrounding affirmative action.

The aim of this work package is to create new pathways within democracies, thus simultaneously strengthening democratic capacity and attuning extremism. It seeks to analyse how human rights and protections combined across socio-political contexts might result in different pathways, emphasising how oftentimes it is precisely the lack of regulation of rights that creates volatile and unpredictable contexts, belongings and outcomes. In certain situations, where integrative institutional, legal, and policy frameworks are put into effect, the outcome might be transformative and promote freedom of expression and democratic consolidation. In the opposite situations, where regulations expand the socio-political space only for selected groups, mutual resentment, distrust and fear prevail, limiting the outcome to continued rejection.

The choice of Harvard's legacy admissions policy as a focal point is deliberate, as it illustrates the precariousness of rights without guaranteed regulations and protections, as well as for its symbolic significance in higher education and the recent legal landscape. Harvard's legacy preferences, which historically contributed to the perpetuation of familial privilege, are now under the lens of a federal civil rights investigation. The methodology involved an in-depth examination of legal documents, historical admissions data, and interviews with relevant stakeholders. The case is strategically chosen to unravel the nuances of legacy admissions and affirmative action, exploring potential biases and the impact on diversity and inclusion. The case delves into the societal implications of privileging familial connections over merit in higher education admissions, as well as including a critique of meritocracy[8] obvious in the aforementioned former President Jonson address.

Legacy preferences, which provide an advantage to applicants with family ties to the institution, have been a long-standing practice in selective college admissions. Proponents of legacy preferences argue that they foster strong connections with alumni, leading to increased donations, which can be used for scholarships. However, recent criticism against this practice has intensified, particularly following the Supreme Court's decision to dismantle the use of race-based affirmative action in admissions.

Context, Belonging, Outcomes

This case is set against not only the movement through the RRP, but also against the theoretical framework used in Hannah Arendt's concept of the "social question" by analyzing her essay "Reflections on Little Rock[9]." The argument posits that Arendt's social question is related to social climbing rather than just poverty. Arendt's opposes mandatory school desegregation, viewing it as black social climbing. She suggests that segregation was established to protect white social climbing, challenging the notion of it being a "natural" association. Her analysis of the integration of public schools in the American South, highlights her perceived blindness to the sociopolitical significance of race and racism, as criticized by scholars like Seyla Benhabib, Robert Bernasconi, and Kathryn T. Gines. We offer three interpretations of Arendt's shortcomings: the category interpretation, racial prejudice interpretation, and cultural interpretation. The case concludes by discussing the (in)famous division between *the political* and *the social* in Arendt's work and examining the implications of her stance on desegregation.

The legacy admissions policy at Harvard exists within a broader context shaped by historical practices, legal frameworks,

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[8] Michael Sandel offers a compelling critique of meritocracy, challenging the prevailing notion of merit-based success. In his book "The Tyranny of Merit," Sandel argues that the concept of meritocracy is not only self-deluding but also contributes to societal divisiveness. He contends that meritocracy, by attributing deservingness solely to the successful, transforms merit into a form of tyranny. Sandel highlights the pitfalls of a perfect meritocracy, emphasizing that it erases the recognition of innate gifts or grace and diminishes our shared sense of fate as a community. Furthermore, he suggests that the pursuit of meritocracy by the liberal left has betrayed the working classes, contributing to a populist backlash against what he perceives as the tyranny of merit. Sandel's critique challenges contemporary attitudes toward success and failure, advocating for a reevaluation of the values accompanying these concepts to overcome polarized politics and foster a more inclusive society.

[9] The Little Rock Nine were a group of nine African American students enrolled in Little Rock Central High School in 1957. Their enrollment was followed by the Little Rock Crisis, in which the students were initially prevented from entering the racially segregated school by Orval Faubus, the Governor of Arkansas.

and societal expectations. The examination of Harvard's admissions history reveals a tradition rooted in familial connections, often criticized for perpetuating elitism. The concept of belonging is extremely difficult to scrutinize, and focuses more on analyzing how legacy preferences impact the composition of the student body and contribute to a sense of entitlement. The exploration of the outcomes of this practice is paramount, considering the potential exclusion of qualified applicants and the perpetuation of socio-economic disparities that could either keep the status quo and a modus vivendi outcome, that allows for groups to continue as they have, even amidst a relative failure of full attunement, or lead to a worsening of conditions and thus an outcome of rejection. The context is non-conflictual as it reflects a slow moving historical progress from slavery and segregation to affirmative action. Which in turn explains a persistent sense of belonging.

Synthesis of Rights/Regulations Pathway

The synthesis of the rights and regulation pathway involves a comprehensive analysis of legal frameworks, civil rights legislation, and the evolving landscape of affirmative action and legacy admissions. The case explores the tension between the rights of institutions to shape their admissions policies and the responsibility to ensure equal opportunities.

Hannah Arendt's analysis of the Little Rock events emphasized the apolitical character of the school dispute. According to Arendt, the issues surrounding education and teaching were devoid of political essence and instead grounded in personal choices and preferences. Analyzing this historical case helps us better understand how those same fallacies are at play in the recent events surrounding affirmative action.

The dismantling of race-based affirmative action sets the stage for an examination of alternative pathways to foster diversity and prevent discrimination. The synthesis aims to provide insights into potential regulatory frameworks that balance institutional autonomy with the imperative of ensuring fair and equitable admissions practices.

Conclusions

The US Department of Education's civil rights investigation into Harvard University's legacy admissions policy marks a significant development in the national discourse on higher education access, privilege, and diversity. The outcome of this investigation could also have far-reaching implications for not only Harvard but all other institutions that employ legacy preferences. As the examination unfolds, it is crucial for stakeholders in academia and policy-making to consider the broader societal implications and work towards more equitable admissions practices in pursuit of diverse and inclusive learning environments.

In conclusion, the investigation into Harvard's legacy admissions policy unfolds a narrative of complex historical practices intersecting with contemporary legal challenges. Our case underscores the need for a nuanced approach to admissions policies that fosters diversity without perpetuating systemic inequalities. As higher education institutions grapple with evolving legal landscapes, the outcomes of this case have far-reaching implications for the future of admissions practices and the pursuit of an inclusive educational environment and democratic equality.

The security once derived from established categories to describe ourselves and others is no longer tenable. James Baldwin's insights[10] are relevant here as they prompt us to confront the evolving dynamics of identity, compelling us to navigate a world where familiar constructs give way to a more intricate, introspective, and interconnected reality.

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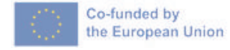
[10] https://www.newyorker.com/magazine/1962/11/17/letter-from-a-region-in-my-mind



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CASE #14

Toleration vs Compassion

Prism case analysis

This case examines the Australian referendum on indigenous rights, specifically focusing on the establishment of the Aboriginal and Torres Strait Islander Voice. The conceptual framework for analysis centres on the comparison between *toleration* and *compassion*. The referendum, which occurred on October 14, 2023, serves as a significant event to explore the implications of these concepts on societal dynamics and the resulting policy outcomes. The overview of the case positions the Australian referendum within the regulatory rights prism, highlighting the presence of exclusionary forces and the potential for resentment and rejection among coexisting groups. The toleration vs. compassion dynamic becomes a critical lens for understanding the societal interplay leading up to the referendum. Tolerance is described as establishing a de facto hierarchical relationship, potentially hindering genuine understanding and cohesion. In contrast, compassion, rooted in recognizing the suffering of others, is seen as having the potential to transcend hierarchical structures, emphasizing its role in eliminating discrimination, fostering social ties, and influencing legislative frameworks. The dialogues initiated by compassion are portrayed as challenging dominant ideologies and contributing to a more just and inclusive society.

Case	Context	Belonging	Outcome
Toleration vs Compassion	Exclusionary	Resentful	Rejection

Case Overview

On October 14, 2023, Australians voted in a landmark referendum, deciding whether to amend the Constitution to recognize the First Peoples of Australia through the establishment of an entity known as the Aboriginal and Torres Strait Islander Voice. The Aboriginal and Torres Strait Islander Voice is a proposed mechanism intended to provide Indigenous Australians with a more significant say in the policies and decisions that affect their lives. Key points include:

- Representations to Parliament and policymakers on matters relating to Aboriginal and Torres Strait Islander peoples
- Recognition of the special place of Aboriginal and Torres Strait Islander people in Australia's history

Australians voted on whether to change the Constitution to recognize the First Peoples of Australia by establishing this Voice - the proposal to establish the Voice was ultimately not approved in the referendum. Had it been approved members of the Voice would have been Aboriginal and/or Torres Strait Islander, selected through a specific process. This initiative could have represented a significant turning point in Australia's ongoing journey towards reconciliation and recognition of its Indigenous peoples.

This case aims to dissect the implications of the concepts of compassion and toleration on Australian societal dynamics, while also elucidating the role of the RRP in the referendum process. The conceptual framework centers on the contrasting forces of toleration and compassion, presenting them as influential factors in navigating the complexities of coexisting groups within the Australian social fabric. We aim to shed light on their role in influencing societal dynamics and the potential impact on the policy outcome. As we delve into the overview, methodological considerations, contextual analysis, and the synthesis of the rights/regulation pathway, a comprehensive understanding of the referendum's impact and the

broader societal implications emerges.

The Australian referendum of 2023 sought to grant constitutional recognition to Indigenous peoples through the establishment of the Aboriginal and Torres Strait Islander Voice. This constitutional change was poised to be a transformative step towards acknowledging the historical marginalization of Indigenous communities. The Voice is a proposed advisory body, made of Aboriginal and Torres Strait Islander people, who would advise the Australian parliament and the government on issues that affect them.

The toleration *versus* compassion dynamic thus becomes crucial in understanding the complex societal interplay leading to the referendum results, and a pertinent backdrop to analyse the RRP, with exclusionary forces at play, and the potential for resentment and rejection among coexisting groups.

Successive Australian governments across diverse political spectrums have regrettably faltered in safeguarding the rights of First Nations people. This lamentable scenario persists despite Australia's endorsement of The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2009, and the support of Human Rights Watch as an important way to ensure self-determination for First Nations people in Australia.

This UNDRIP explicitly acknowledges the entitlement of Indigenous communities to actively participate in decision-making processes concerning matters that bear implications on their rights. Moreover, it emphasizes the imperative for governments to engage in consultations with Indigenous populations prior to enacting legislation affecting them.

The UN Declaration on the Rights of Indigenous Peoples stands as a paramount international instrument, underscoring its unparalleled comprehensiveness concerning the rights of Indigenous communities globally. Its significance lies in the establishment of a universal framework delineating minimum standards essential for the survival, dignity, and overall well-being of Indigenous peoples. Furthermore, it provides an intricate elaboration on pre-existing human rights standards and fundamental freedoms, specifically tailored to the unique circumstances and rights of Indigenous populations worldwide. The Declaration is particularly significant because Indigenous peoples, including Aboriginal and Torres Strait Islander peoples, were involved in its drafting.

Despite of the internationally binding Declaration and the referendum, the Australian citizens failed to see the Aboriginals as they equals, worthy of rights and protections, and persisted in an approach merely tolerant of their existence, falling short of a compassionate response able to recognize the common humanity.

Method and Case Justification

The aim of this work package is to create new pathways within democracies, thus simultaneously strengthening democratic capacity and attuning extremism. It seeks to analyse how human rights and protections combined across socio-political contexts might result in different pathways, emphasising how oftentimes it is precisely the lack of regulation of rights that creates volatile and unpredictable contexts, belongings and outcomes. In certain situations, where integrative institutional, legal, and policy frameworks are put into effect, the outcome might be transformative and promote freedom of expression and democratic consolidation. In the opposite situations, where regulations expand the socio-political space only for selected groups, mutual resentment, distrust and fear prevail, limiting the outcome to continued rejection.

Our methodological approach involves qualitative analysis, drawing on historical context, legal perspectives, societal dynamics and a theoretical framework evolving around the role of prosocial emotions in politics (Zarka and Fleury, 2014). The choice of this case lies in its emblematic representation of the RRP and the potential impact of toleration and compassion on the policy outcome. It is grounded in the historical significance of this referendum and its potential to shed light on the societal dynamics at play. Employing a qualitative research approach, this study utilizes in-depth analysis and synthesis of existing literature to unravel the complexities surrounding toleration and compassion in the Australian context.

Context, Belonging, Outcome

Delving into the background of the referendum, this section explores the broader context, examining the sense of belonging among Indigenous communities and the anticipated outcomes of the proposed constitutional change. Tolerance, a key component in societal dynamics[1], often establishes a *de facto* hierarchical relationship, with someone tolerating and

[1] For more on this Tuckness Alex, "Locke's Main Argument for Toleration", in Melissa S. Williams, Jeremy Waldron (dir.), ***Toleration and Its Limits***, New York, New York University Press, 2008.

someone being tolerated. This dynamic protects the *status quo* but may hinder genuine understanding and cohesion. In contrast, compassion, rooted in recognizing the suffering of others, has the potential to transcend hierarchical structures, fostering a more empathetic and inclusive societal framework (Zarić, 2021).

The **context** here is **exclusionary**, grounded on an obvious, if not extreme, exclusion of one group (the native community) within the relevant polity. The **belonging** is thus **resentful**, as it perdures among groups that coexist in opposition and may decompose at any moment. Groups resent the presence of another even as their modes of attunement may be aligned at a given moment. The **outcome** is a clear case of **rejection**, almost an ideal-typical one, given that the vote on the referendum refused equal rights and recognition to the Aboriginal community.

The sense of belonging among Indigenous communities is intricately interwoven with notions of tolerance and compassion. Tolerance, a prevailing component in societal dynamics, often translates into a de facto hierarchical relationship. In the case of the referendum, this dynamic has led to an exclusionary environment where one group, the native community, faces extreme exclusion within the relevant polity. Belonging, in this context, is tinged with resentment as groups coexist in opposition, maintaining a fragile attunement that can decompose at any moment.

Synthesis of Rights/Regulations Pathway

The Australian referendum on indigenous rights provides a compelling case study for the interplay between toleration and compassion. The regulatory rights prism reveals how toleration, with its hierarchical nature, and compassion, with its potential for inclusivity, shape societal dynamics. The policy outcome reflects not only legal and institutional changes but also the ethical and moral fabric of the community - a multifaceted context that extends beyond the immediate political sphere.

The rejection of the referendum signifies more than a mere denial of constitutional amendments; it symbolizes the refusal of equal rights and recognition to the Aboriginal community. The outcome reflects a deep-seated resistance to acknowledging and addressing historical injustices, posing significant challenges to fostering a more inclusive and compassionate societal framework.

The case unfolds against the backdrop of compassion as a political force. It explores the transformative potential of compassion in policy outcomes, emphasising its role in eliminating discrimination, fostering social ties, and influencing legislative frameworks. The dialogues initiated by compassion challenge dominant ideologies and contribute to a more just and inclusive society.

Compassion is a sentiment of both moral and metaphysical significance, since it reveals the profound unity of all beings. The contemporary age is, more than any other, marked by the need to rethink the status of the Other; the failure of egalitarian ideologies and the erasure of collectives make this one of its most crucial demands.

Conclusion

Although it is as old as the human world itself, the return of war to Europe and the new humanitarian crisis it has provoked raise once again the question of compassion, and of those we deem worthy of it. Compassion is the capacity to be moved by another's misfortune, a sensitivity to the irruption of another's pain. Yet this pain is not felt as such in an impossible communion of feelings; it is an intuition by which I recognize my own vulnerability in that of others, without which moral life would not be possible. And yet, if compassion cannot be enlightened by reasoned considerations aimed at the universal, it cannot provide a basis for the always singular decisions with which life confronts us.

According to Claudine Haroche, compassion represents the republican will to eliminate discrimination and compensate for weaknesses, in order to foster sensitivity to others and maintain social ties. Learning compassion is an essential part of a citizen's moral education. It affects not only collective life, but also personal life, and has given rise to legislation and policies of solidarity, from the solidarity movement of the 19th century to the welfare state of the 20th century, which generalized the social protection system.

Compassion began to take root in political life with the emergence of humanitarianism as an alternative mode of action in the face of the inability of nation-states to cope with the new global challenges posed by climate change and migration. This presence of compassion on the socio-political scene owes much to the emergence of care as a philosophy of a new relationship with the world, based on vulnerability, making the relationship with the other the nexus of social life, and social suffering a way of expressing the difficulty of living in society at the same time as a new paradigm for social intervention. The good life, vulnerability and the common good are becoming key themes in contemporary ethical and political debate.

How are we to understand the absence of compassionate mobilization, or its discriminatory distribution: strong for certain categories of refugees, and lacking, if not totally absent, for others?

Starting from the idea that our individual and collective behavior is not a matter of nature but of culture, we need to question the dominant ideologies in order to deconstruct them. The profound crises that shake our certainties open up this potential for moral reflection and help to people in situations of vulnerability and social exclusion, i.e. in a position of discordance with dominant social norms.

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CASE #15

Northern Ireland: a case-study of bringing extremists in from the cold

Prism case analysis

There are lessons for the rest of Europe and beyond in countering everyday extremism, as well as terrorism and populism, from the conflict, known as the Troubles, and the peace process in Northern Ireland. Resisting extremism is still a work in progress but everyday life in Northern Ireland is manifestly more peaceful since the 1994 ceasefires, followed by the 1998 Good Friday Agreement, than it was for the quarter of a century before the peace process. This case study therefore explores how such everyday extremism as fomenting 'political or sectarian hostility' was challenged during the Troubles and still needs to be challenged continuously. In particular, in 1988, the UK government introduced broadcasting restrictions on those who supported terrorism. These were much criticised but survived domestic and European court scrutiny, as a proportionate measure to signal what this OppAttune study calls 'everyday extremism'. In the early 1990s, citizens created their own process of inclusive dialogue. This allowed voices to be heard and opinions to be critically assessed by all-comers. Gradually, those who supported violence began to accept that they could succeed in democratic politics without paramilitary activity, which led to the ceasefires and eventually political agreement on new structures. The lessons from the Troubles are taken to be how to eliminate or reduce violence in a conflict by signalling that the use or support of violence is everyday extremism in itself but simultaneously that, if violence ends, full and immediate engagement in the political arena is available even to those who were promoting violence, all the while addressing the underlying narratives of resentful and/or precarious belonging. This process was known as 'bringing in from the cold' those who supported terrorism. Alongside the visible political drama of democratic inclusion, this case-study shows how grassroots dialogue and community engagement played its part in countering everyday extremism.

Case	Context	Belonging	Outcome
Northern Ireland: a case-study of bringing extremists in from the cold	Uneasy	Resentful / Precarious	Dialogue

Case Overview

There are lessons for the rest of Europe and beyond in countering everyday extremism, as well as terrorism and populism, from the conflict, known as the Troubles, and the peace process in Northern Ireland. Resisting extremism is still a work in progress but everyday life in Northern Ireland is manifestly more peaceful since the 1994 ceasefires, followed by the 1998 Good Friday Agreement, than it was for the quarter of a century before the peace process.

The UK Parliament passed on 18 September 2023 a statute which begins by defining the 'Troubles' in Northern Ireland. This Act is hugely controversial, which in itself shows a legacy of the conflict. The Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 explains in s1 that,

> '(1) In this Act "the Troubles" means the events and conduct that related to Northern Ireland affairs and occurred during the period—

(a) beginning with 1 January 1966, and

(b) ending with 10 April 1998…

…

(6) "Northern Ireland affairs" means—

(a) the constitutional status of Northern Ireland, or

(b) political or sectarian hostility between people in Northern Ireland'.

This case study therefore explores how such everyday extremism as fomenting 'political or sectarian hostility' was challenged during the Troubles and still needs to be challenged continuously.

Early in the Troubles, in the 1970s, one lesson was that exceptional measures intended to suppress terrorism may instead promote extremism in this sense of 'political or sectarian hostility between people'. Internment was one such example. Detaining people without trial on suspicion of being or helping terrorists, based on inaccurate intelligence, alienated many.

Indeed, the European Court of Human Rights ruled in 1978 against the UK in a case brought by Ireland over the inhuman and degrading treatment of suspected terrorists in the early 1970s. Interrogating them while subjecting them to 'five techniques' of hooding, noise, wall standing with outstretched fingers and on tiptoes, deprivation of sleep, and deprivation of food and drink, was held to violate Article 3 of the European Convention on Human Rights, although the Court did not consider it amounted to the strongest term in the Article of 'torture'.

On the other hand, most people of goodwill in Northern Ireland could see that intimidation of jurors and witnesses meant that another measure, Diplock Courts, of judges sitting in criminal trials without juries, was an unfortunate necessity.

Somewhere between the two categories of measures which made matters worse and those which were widely accepted as sensible, the European Court of Human Rights ruled in 1994 in favour of the UK in a case brought by journalists against the broadcasting restrictions introduced in 1988. The apex of the UK's legal system, then the Judicial Committee of the House of Lords (since 2002 the Supreme Court), had similarly ruled in 1991 against overturning this measure, despite it being called 'half-baked' by the presiding judge in the Court of Appeal, the intermediate court. Indeed, on one view it was the 'half-baked' nature of the restrictions which saved them. They were ridiculed by the media and by those 'banned' from speaking in their own voices on radio and television, but these restrictions somehow went to the heart of the challenge facing all democracies contending with political extremism.

In crude terms, the attacks on communities, the security forces and civil servants in 1988 had got to the point where the UK government judged that something had to be done and be seen to be done. Restricting the 'oxygen of publicity' was the least intrusive measure which the Home Secretary, Douglas Hurd, could have introduced without being dismissed by his Prime Minister Margaret Thatcher, and yet still expect to be vindicated by the courts, as he indeed was. Moreover, as the supporters of terrorism seemed to be enjoying their publicity and gaining credibility, it came as something of a shock for viewers and listeners to have this accompanying signal that these individuals were extremists in the sense of advocating violence despite the democratic routes open to them to seek their political ends. Opponents of the restrictions claimed that they would defeat them in court but they failed. It took the ending of the violence for the restrictions to be lifted.

In this case study, the lessons from the Troubles are taken to be how to eliminate or reduce violence in a conflict by signalling that the use or support of violence is everyday extremism in itself but simultaneously that, if violence ends, full and immediate engagement in the political arena is available even to those who were promoting violence, all the while addressing the underlying narratives of resentful and/or precarious belonging. This process was known as 'bringing in from the cold' those who supported terrorism. Alongside the visible political drama of democratic inclusion, this case-study shows how grassroots dialogue and community engagement played its part in countering everyday extremism.

Method and Case Justification

One of us, Simon Lee, was professor of jurisprudence at Queen's University Belfast during the relevant period, writing about the broadcasting restrictions in *The Cost of Free Speech*, engaging with Catholic and Protestant community groups, commenting frequently in the media, co-founding Initiative '92, the citizens' movement which established the inclusive process of grassroots dialogue which culminated in the Opsahl Commission's Report, and then writing about its central recommendation on parity of esteem. The other one of us, Edward Abbott-Halpin, led a centre of peace studies in England which was named after Senator George Mitchell, the US negotiator who played such a decisive role in chairing the talks which led to the Good Friday Agreement of 1998. Both of us have followed events in Northern Ireland before, during and after that period of 1989 to 1995. For instance, both were at the Dialogue Society's conference in Oxford, in September 2022,

which compared and contrasted processes of inclusive dialogue in diverse societies. Our experience is that the Northern Ireland conflict and peace process has a resonance across Europe and beyond, yet its community dimensions are often overlooked in the media's focus on politicians.

In particular, 2023 saw a round of celebrations of the 25th anniversary of the Good Friday Agreement as if that led to the republican and loyalist ceasefires which had in fact happened four years earlier. Of course, political agreement was necessary to sustain the peace and to build towards justice, a process which remains incomplete. This case-study therefore is chosen to give a deeper background to what can be seen on the political surface. It recognises that everyday extremism has been difficult to live with before, during and after the Troubles. Even now, it remains a fact of life in certain areas in Northern Ireland.

The case-study has two major conclusions. Its first lesson is that a political and legal development which was derided by critics as a foolish encroachment on civil liberties when it was introduced in 1988, namely the broadcasting restrictions, has a particular significance for OppAttune. Second, it shows how citizens can take matters into their own hands and make progress in convincing even those who support violence that their everyday extremism is counter-productive and that the extreme ends of the political spectrum, up to the point of using or condoning terrorism, can be 'brought in from the cold' to find a place in mainstream politics.

Our methods are therefore a combination of studying law in its social and political contexts, for the broadcasting restrictions, and the ethnographic insights of being one of the instigators of an inclusive grassroots process of dialogue encountering and countering everyday extremism, in both styles benefiting from another kind of dialogue, the interaction between researchers, teachers and colleagues who have had decades of reflecting on these pivotal developments in Northern Ireland.

Context, Belonging, Outcomes

In the early 1920s, as Ireland won its independence from what had been the United Kingdom of Great Britain and Ireland, six of the nine counties of the historic province of Ulster were retained within what became the United Kingdom of Great Britain and Northern Ireland, so as to create a Protestant and unionist majority in the new legal and political system of Northern Ireland. The 26 counties of the rest of the island of Ireland, with overwhelmingly Catholic populations, formed a new state with nationalist aspirations to reunite the whole island. This was an uneasy compromise from the start, based on an assumption that other solutions would have continued bloodshed and disorder.

In broad terms, the two main communities in Northern Ireland were seen as, on the one hand, Protestant/unionist/British, and on the other as Catholic/nationalist/Irish. The extreme wing of the former grouping, supporting or toying with paramilitary violence, were known as loyalist while the equivalent extreme wing of the latter were known as republican. It is disputed as to what were the driving forces within each community, whether it was the religion or the political aspiration or identity or sense of belonging.

Positions hardened over the next forty or so years, with widespread gerrymandering and discrimination against Catholics and nationalists under the Protestant and unionist Northern Ireland government in Stormont, Belfast, and a territorial claim to the 32 counties in the constitution of Ireland, which had also left the Commonwealth and was now a Republic. Westminster governments, while notionally overseeing Northern Ireland, in practice let Stormont govern unfairly.

When the civil rights movement in the late 1960s challenged peacefully this state of affairs in Northern Ireland, it was met with hostility by the Stormont regime and its police force. There was a resurgence of republican paramilitary activity, which had been sporadic in previous decades, and a reaction by loyalist paramilitaries. Eventually the Westminster government took action, sending in the British army, initially to defend Catholic and nationalist communities, and later imposed direct rule, taking over from Stormont. At every turn, violence seemed to escalate and the army were seen now in nationalist communities as a symbol and practical manifestation of British rule. During the Troubles, for thirty years from the late 1960s to the late 1990s, over 3,000 people died and many more were injured and traumatised.

Various measures taken by the UK government over the first twenty years of the Troubles made matters worse but some progress was intermittently made in these challenging circumstances in upholding the rule of law (also an invaluable asset used for instance by the EU to challenge extremism in the Hungarian government). This case study highlights one unusual legal development which was widely condemned by civil liberties lawyers and the media but which could be described as having played a pivotal role in challenging the media's natural interest in those on the extremes, which was itself reinforcing everyday extremism.

After a particularly gruesome sequence of terrorist acts, and a growing practice of giving those justifying this extremism media platforms, the Westminster government introduced in 1988 broadcasting restrictions, initially interpreted by the media and the supporters of extremism as a 'ban' and as a violation of their freedom of speech. Journalists and extremists

cried censorship and declared that they would 'take their case to Europe', meaning the European Court of Human Rights in Strasbourg. This requires litigants first to have exhausted domestic remedies, so the case was taken through the British courts and then on to Strasbourg. The journalists lost at every stage. Although there is a right to freedom of expression, there are circumstances in which governments are entitled to take necessary and proportionate measures to circumscribe speech which threatens national security or the lives and safety of citizens.

Judges pointed out, and the media eventually grasped, that they could still broadcast the words of the supporters of terrorism, even though their voices could not be heard. They could use sub-titles or dub the voices with actors reading out the words. This was derided as pointless but it was actually effective, while being proportionate. It was sending a signal to the public, the equivalent of a pulsating asterisk in the corner of a screen, or a background noise, to remind viewers or listeners that these people being interviewed were different to most politicians or members of the public in that they advocated the use of violence for political ends, despite democratic channels being open to them. Once they stopped such extremism, they could be heard on the airwaves or screens normally. It turned out that they did value being on screen with their own voices, and that they could hold their own in political debates and vote-gathering without continuing to support violence.

Different circumstances might justify different solutions but the basic lesson here is that resistance to the 'normalisation' of support for violence has at some point to encompass governments taking some such steps, and to be prepared to withstand mass media (and nowadays social media) criticism precisely because it can be the media (both mass and social) which 'normalises' extremism.

Meanwhile, progress was being made towards the ceasefires which came about in 1994. The official narrative of politicians is as if that was due to courageous and skilful negotiation by politicians in the 1998 Good Friday Agreement. That chronology does not make sense, however, and it is more that the ceasefires in 1994 paved the way for a political settlement. Of course, the prospect of such an Agreement would have been an inducement. The Agreement then was invaluable in setting a new tone in Northern Ireland and made clear that more needs to be done, after an uneasy ceasefire or an uneasy peace is achieved, to move towards an inclusive and fair set of political institutions in the changed environment.

It would all have been to no avail, however, if there had not been years of dialogue behind the scenes at various levels. While governments claim not to talk to terrorists or extremists, it is vital to open back channels of communication, to listen to them and to show them that they can be heard, if not in the way they want in the media then at least in conversations with intermediaries which get back to governments.

Moreover, the extremists needed to have some outlet for public discourse, partly to hear those of differing persuasions, partly to have a chance to convince people of the rightness of their cause, despite their methods of violence, and partly so that they became accustomed to robust challenge and criticism. Equally importantly, other citizens deserved to be heard and to have the opportunity of hearing from one another, so that they too could cut through myths and stereotyping to appreciate why there are different perspectives about the past, present and future. Everyday extremism, in other words, must not be allowed to stymie debate between citizens who accept the parameters of democratic dialogue.

In the case of Northern Ireland, this dialogue was created by a citizens' movement called Initiative '92, which created an independent commission of inquiry, open to all-comers including those then subject to broadcasting restrictions. It was chaired by the Norwegian human rights lawyer, Professor Torkel Opsahl. Anyone could make a submission. The Commissioners chose to call some of those people to public hearings, and a few to private ones. The idea was developed in 1991, made public in 1992 with a call for submissions, the hearings were held in January and February 1993, the Opsahl Report was published in June 1993, and further charitable funding was secured for another year to continue outreach support to those who had made submissions and to promote discussion of the Report. The first IRA ceasefire came on 31st August 1994, with the loyalist ceasefire following on 13th October 1994. Republicans and loyalists had been engaged in the Opsahl dialogue. This timeline is significant, compared to the politicians' and media focus on the 1998 Good Friday Agreement. That was a welcome development and vital for progress, Moreover, the initial ceasefires collapsed and had to be reinstated. Nevertheless, such extremism needs to be challenged at grassroots level while the violence is continuing if an inclusive peace process is to prevail.

This was by no means the only contribution of civic society to challenging everyday extremism. For example, the Peace Train[1] challenged the everyday extremism of the IRA bombing, or threatening to bomb, the Belfast to Dublin train line. This was an easy target but it was absurd for terrorists who were supposedly seeking a united Ireland to attack repeatedly the best mode of public transport between the two parts of the island of Ireland, disrupting work, leisure, family life and good communications. The courage of those who challenged this is a good example of civic society standing up to extremism,

[1] https://www.irishtimes.com/culture/books/2023/04/10/putting-peace-on-the-right-track-the-peace-train-and-civil-society-in-northern-ireland/

using publicity and ridicule to highlight the anti-social and counter-productive violence of the extremists. They ran seven peace trains between Belfast and Dublin from 1989 to 1995, again pre-dating the Agreement of 1998 and making a contribution to the ceasefires of 1994. In 2023, the Irish government's Reconciliation Fund is supporting a research project led by Dr Connal Parr of Northumbria University into how the Peace Train mobilised trade unions, business people, churches of different denominations, politician, media personalities and poets and others active in the cultural life of these islands. This is itself part of an effective toolkit, to study how civic or civil society can stop extremists, so to speak, in their tracks and, to adapt a phrase of the Peace Train organisation itself, to keep the lines open.

This was a successful response on a single issue, with huge symbolism, which had ripple effects more generally. Initiative '92 had an even more challenging task but it was supported by Quaker and other charities in funding its pioneering model. This inclusive process of dialogue was distinctive and has been much copied by citizens' movements elsewhere and increasingly by official bodies which follow its pattern of calling for evidence and opinions, then holding hearings, then issuing reports, then promoting debate on both the process and the substance.

The **context** was an uneasy one in which there seemed to be no prospect of an end to violence on all sides, supported by extremists in what became known (inaccurately and unhelpfully) as 'the two communities', but the story unfolded through each stage of **belonging**, as a resentful, persistent minority community and a precarious majority community came to an accommodation of what the OppAttune prism designates as a heightened belonging, reaching an **outcome** which has moved from rejection to an unstable modus vivendi through dialogue to a transformative and stable position which has survived even demographic changes which challenge the designations of majority and minority community and which can persist, whichever state is eventually chosen as the legitimate authority through the consent of people voting in a referendum, as it already has survived for over a quarter of a century, even now during one of the intermittent periods when the political arrangements for governance are in abeyance.

Indeed, much of the terminology of the OppAttune project comes from this paradigmatic case study of bringing the extremists 'in from the cold', a phrase used by the Opsahl Commission in 1993. Although this open forum approach attracted criticism in 1991 and 1992, by the time of the hearings and the report of the Commission in 1993 many citizens and the governments could see the value of this participation in public dialogue by the extremists, subjecting them to scrutiny and criticism while holding out the prospect of a democratic, political alternative path to pursuing their aspirations non-violently. We now know that the governments were in parallel secret discussions with the extremists and the leaders of the terrorist organisations.

As the Opsahl Commission extended the funding and work of its outreach team for another year to disseminate and debate findings at grassroots community level, as well as through the media, this dialogue continued to bring not only the people but also the ideas of the extremists in from the cold. Indeed, the Irish government took up the baton and began in 1994 to hold its own, similar, public hearings, in its Forum for Peace and Reconciliation.

Both the Northern Irish grassroots dialogue and this official Irish process thus played their parts in the dramatic developments of 1994, when first the republican movement and then the loyalist movement declared ceasefires. This happened four years ahead of the Good Friday Agreement which was concluded in 1998 and cannot possibly explain the transformation which reached its pivotal moments four years earlier.

This process of inclusive dialogue might not have worked, however, without that surprising and much-criticised UK government policy from 36 years ago also playing a part by signalling via restrictions on the mass media who the extremists were, how they were different from mainstream politicians, and how they could transition to that democratic model if they so wished, which it transpires they did. We now have social media and many technological innovations which make the signalling in other contexts both more complex and yet potentially more influential, if suitably adapted, while the extremists have become the mainstream.

The Opsahl Commission's 1993 report devoted more space to those submissions and hearings, including independent accounts of the hearings, than to their own recommendations, which revolved around 'parity of esteem'. These conclusions were put to the public in extensive polling which endorsed them. The process of dialogue was well covered in the Northern Irish media and discussed in the legislatures of Dublin and London. The central recommendation of parity of esteem was adopted by the Good Friday Agreement.

Ultimately, the lawful authorities needed to convince as many people as possible that violence was an impediment to political progress, not a means of terrorists getting their own way. When even the terrorists themselves, and their supporters, recognised this, the peace process was truly underway. Confidence-building measures were then necessary to show those on the extremes of the communities that they could stand for election to an assembly and an executive where they could participate in self-government at a sub-state level while still working towards their divergent aspirations for their ultimate destination within a state.

Unionists and nationalists did indeed then collaborate in the governance of Northern Ireland. The elaborate mechanism of ensuring that the First Minister and Deputy First Minister would be from parties of radically different ambitions meant

that the initial pairing of the more moderate parties, led by David Trimble of the Ulster Unionist Party and Seamus Mallon of the SDLP, was followed by the remarkable sight of Ian Paisley, founder of the Democratic Unionist Party, and Martin McGuinness of Sinn Fein, widely regarded as a former leader of the IRA, working in tandem. When these major figures of the Troubles were succeeded by others, however, progress faltered and stalled.

This was widely assumed to be because of the inability of other characters to command support or to work in harmony across traditional divides. Or another common interpretation is that developments in the states themselves have changed the dynamics unhelpfully. Brexit, for example, has taken the UK out of the EU but the only land border between the two is that of Northern Ireland so that became a focal point of the tortuous process of agreeing a deal and transitional arrangements. One of the parties in Northern Ireland, the DUP, held the balance of power in Westminster after the 2017 General Election. Meanwhile, Sinn Fein secured the highest first-preference votes of any party in the Irish election of 2020 and was only kept out of power in Dublin by a coalition of the next two parties, which were traditionally on opposite sides of the Dail, Fianna Fail and Fine Gael, together with the Green Party. When Sinn Fein then became the party with the most votes in Northern Ireland and seats in the Assembly, in its 2022 election, and thus was entitled to the First Minister portfolio, the DUP relied on disagreements over Brexit as an excuse to delay forming an executive in which they would have the Deputy role to the symbolism of Sinn Fein's First Minister. Two years later, however, there now is a Sinn Fein First Minister in Michelle O'Neill and a DUP Deputy First Minister in Emma Little-Pengelly.

Deeper analysis suggests another lesson. The pattern of voting has often been interpreted in the media as the parties whose leaders won the Nobel Peace Prize in 1998, David Trimble's UUP and John Hume's SDLP, being squeezed out by the harder-line parties of the DUP and Sinn Fein. This is true but it is not the whole story. For there has also been a rise in the vote of the Alliance Party which appeals to both Catholics and Protestants. This is obscured by the mechanisms of the Good Friday Agreement which, to promote that collaboration across the historic divide of the two main communities, Protestant/unionist and Catholic/nationalist, ensured that if the First Minister were from a party which designated itself as 'unionist', then the Deputy First Minister would have to be from a party which designated itself as 'nationalist' (as was the case initially) and vice versa (as is now the case in 2024). This under-played the middle ground and more complex identities of those who sought support across those communities, the Alliance Party and the Green Party. If those elected do not identify themselves as unionist or nationalist, they are designated by the Speaker of the Assembly as 'other'. This does not show parity of esteem to those who now form a sizeable middle ground. While the Good Friday Agreement's mentality of dividing the population into two teams and inviting them to collaborate may have been necessary for political progress in 1998, the time may have come in 2024, if not before, to show parity of esteem to those who resist being defined by national aspiration.

Meanwhile, there is no sudden political solution which somehow does away with extremism and everyone lives happily ever after. Everyday extremism continues through intimidation in, for example, social housing. This has been meticulously and courageously researched by the long-standing independent human rights organisation, the Committee on the Administration of Justice, which has presented its findings in 2023 to the Northern Ireland Affairs Committee, a Select Committee of the House of Commons in Westminster[2].

Synthesis of Rights/Regulations Pathway

This OppAttune study has developed a RRP, which has four types of context, four types of belonging and four types of outcomes.

On **context**, the Troubles in Northern Ireland cannot be categorised as 'non-conflictual'. On the contrary, the Troubles and Northern Ireland were conflict-driven and conflict-ridden. The ensuing peace process and tentative moves towards justice in an inclusive and participatory democracy have been 'uneasy'. The move away from 'exclusionary' approaches has been complex but the peace process at all levels aspires to be 'emancipatory'.

The '**belonging**' angle of the prism has been refined from this very case study. The Catholic and nationalist community were described by one of their daughters, the distinguished historian, Professor Marianne Elliott, as having a 'resentful belonging', in contrast to the Protestant and unionist community whose sense of belonging within the UK is persistent yet, in the word chosen by one of their sons, the former Presbyterian Moderator, Rev Dr John Dunlop, 'precarious'.

The other dimension of the OppAttune prism is '**Outcomes**'. Dialogue has averted rejection, with an uneasy modus vivendi which keeps open the possibilities of transformation.

[2] https://www.belfasttelegraph.co.uk/news/northern-ireland/threats-and-coercion-how-paramilitaries-try-to-control-social-housing/a410915205.html

Although governments continue to claim that they never talk to terrorists, these grassroots open processes do need to be accompanied by some kind of exchange of views, albeit through intermediaries, between governments and those engaged in violence. Trust or confidence is itself difficult to generate when people are alienated, resentful or feeling precarious. In time, however, even extremists can often come to see that even governments they oppose or distrust can make changes and keep promises that such and such an opportunity will follow such and such an action. The same applies the other way round, that government ministers can come to realise that extremists who are seeking to assassinate them will nevertheless call a ceasefire on Christmas Day and stick to it, then try a longer ceasefire, then declare that they are no longer aiming to kill their opponents, then some time on, commit their weapons to an independently-verified arms dump, then join the political mainstream.

Those who were subject to broadcasting restrictions in 1988, or interned or imprisoned before that, were therefore able to emerge as democratic politicians in the late 1990s and into the twentieth century, to the point where the political wing of the republican movement, Sinn Fein, can win the most votes in elections north and south of the border, despite its paramilitary wing, the Provisional IRA, having been proscribed on both sides of the border during the Troubles. Extremists have been elected into positions of power. Creating the conditions for that transformation will require different techniques in different circumstances. Nevertheless, this case study shows that such dramatic change is possible and can be replicated, if properly understood.

At the symbolic level, one of the most telling images of the changing times was the televised handshake between Martin McGuinness of Sinn Fein and Queen Elizabeth II in 2012. During the Troubles, the monarch and her family had been seen as the major targets for the IRA, which celebrated its murder of Lord Mountbatten, uncle to Prince Philip, and his sailing companions including two teenage grandsons, in 1979 by planting a bomb on their boat. In 2023, the respective successors to Martin McGuinness and Queen Elizabeth II were even to be found together in Westminster Abbey as Michelle O'Neill, the leader of Sinn Fein in the North of Ireland and the First Minister-designate, attended the Coronation of King Charles III, accompanied by Alex Maskey, the Speaker of the Northern Ireland Assembly, another Sinn Fein politician. He had been interned in the Maze in the early 1970s before his detention and conviction for attempting to escape were quashed in 2022. This was because the Supreme Court had ruled in the case of another leading figure in the IRA and Sinn Fein, Gerry Adams, that the detention orders had not been authorised personally by the Secretary of State back in the early 1970s, as required by the law. Although belated, this affirmation of the rule of law had its own symbolic and practical value. Since the internment was unlawful, it was not unlawful to attempt to escape custody. This brings us full circle.

The case study is full of hope as in even the most intransigent of conflicts, an understanding of the context and the different modes of belonging, allied with a willingness to challenge and disrupt everyday extremism, can bring about dramatic change.

More could still be done to recognise the complexities of diverse notions of belonging. In particular, it is odd in a world wherein the political and media classes recognise bi-sexuality, gender fluidity and gender transitions, to insist politically on an immutable bi-polar division for identity based on national aspiration, and to consign those who do not conform to being stigmatised as 'other'. The Good Friday Agreement is an international treaty so it is not easy to change the text itself or the associated institutions and formulas. Nevertheless, a more inclusive and meaningful term, chosen by those elected representatives themselves, should ideally replace the category of 'other', which does not give parity of esteem and due respect to these identities or modes of belonging.

Although logically a more complex system of designating First and Deputy First Ministers might follow, so that there could be a triumvirate of a First Minister working with two Deputies, it is unrealistic to expect the more popular parties to accept a diminution in their influence. Instead, it would be up to the Alliance Party, the Green Party and others to make headway in Northern Ireland's elections and in UK general elections. This in turn might cause the unionist parties to come together and the nationalist parties to come together, so as to avoid splitting their votes. The history shows, however, that this is unlikely.

To put it another way, the grassroots explorations of resentful belonging and precarious belonging have led a growing number of people to come to terms with a tripartite parity of esteem. Now that there is a widespread understanding of why nationalists/Catholics had an element of resentment towards the UK, while benefiting from its education system, its NHS and its wider welfare state, and why unionists' precarious sense of belonging was rooted in a fear of being sold out by a Westminster government and bounced into the Irish state, the next stage is to appreciate why there is a significant and growing number who are not as bothered about the identity of the state they are in, or might be in, so much as wanting to create the best environment possible, whichever state is the ultimate guarantor. The word 'environment' and the use of 'Green' in the name of a political party to signal concern for the environment, rather than to indicate an Irish nationalist identity, are other signs of what is happening. There are bigger and more pressing concerns than national aspirations for those whose focus is on the climate emergency, for instance, in which our allegiance to the planet, rather than to Dublin or London, is more important and urgent.

The national identity question now has a settled method of resolution, polls in Northern Ireland and in the Republic of Ireland, whenever it seems to the Secretary of State for Northern Ireland that there might be a majority in such a referen-

dum for a change in the current status. Although the demography has led to Catholics now being in a majority, there was never a complete equation of Catholics with nationalists, so that does not translate into a likely majority in a plebiscite on leaving the UK. Both the UK and the Irish governments are committed to any change acknowledging the dual status which citizens of Northern Ireland already have, with the option of British or Irish nationality and passports, or of holding both simultaneously.

Conclusions

The Opsahl process created by Initiative '92 has been subjected to periodic reflections, for instance by the political scientist Adrian Guelke ten years on, by one of the Commissioners, the historian Marianne Elliott, twenty years on, and last year on the thirtieth anniversary of the dialogue by the academic lawyer Simon Lee, who co-founded Initiative '92 with the journalist Robin Wilson, and is one of the co-authors of a case study "The 30th Anniversary of a Grassroots Dialogue in Northern Ireland"[3].

That Journal is also significant and the special issue was itself an outcome of a Dialogue Society conference (held in Oxford in 2022, with a keynote address by Lord Alderdice, the former leader of the Alliance Party and Speaker of the Northern Ireland Assembly), in which both authors of this case study participated. Such commitment to dialogue across different countries, faiths and beliefs, has become the central, but often unsung, counter to political extremism. It is a manifestation of a commitment to parity of esteem.

Even in the challenging circumstances of the Troubles, pushing back against everyday extremism through creating opportunities for the same views to be aired and challenged on their merits, irrespective of the threat of violence, can be transforming.

Until those engaging in, or supporting, the threats of violence can see that their use of such means is a barrier to their involvement in democratic politics, some restrictions on their appearances in the broadcast media might be necessary to distinguish them from politicians who abjure violence.

Meanwhile, grassroots dialogue is an outlet for them to be heard but also for the voices of those who might be intimidated to be given a respectful hearing. The conversations then continue in other forums and within the groups of those who have hitherto been focused on their own resentful or precarious senses of belonging.

Following the rule of law is right in itself but it also enables governments to distance themselves from the behaviours of terrorists who use violence to browbeat members of their own communities and to intimidate other communities. Governments claim to act with authority, using legitimate force to promote or preserve the common good. In contrast, terrorists seek to intimidate governments, communities and individuals so as to influence public policy through violence or the threat of violence or other forms of coercion, rather than rely on the ballot box.

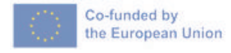
Everyday extremism, if unchecked, can come to dominate the political landscape and become the norm for vulnerable citizens in communities where the extremists hold sway. In these circumstances, sadly, the media tend to gravitate towards those who speak on behalf of the extremists, the political wings of paramilitary organisations. This practice of everyday extremism being rewarded with media coverage 'normalises' the use of violence for political ends. Disrupting that connection need not involve 'bans' so much as restrictions designed to highlight the extremism of supporting violence. If accompanied by outlets for all-comers to exchange views without intimidation, an inconvenient restriction on freedom of expression for extremists can be turned into their free and full participation in democratic politics.

A final insight into how such a miraculous transformation can be effected comes from the parable of the labourers in the vineyard. See the report by an independent journalist of Simon Lee speaking about this at a celebration by the Irish Secretariat in Belfast of the 30th anniversary of the Opsahl Report[4].

Instead of penalising those who come late to democracy, they should be paid the same respect as others who have laboured long and hard in peaceful dialogue and politics. This can itself be resented by some, including those within the 'same side' of 'the two communities' and by those in neither of these bi-polar senses of belonging, as well as by those 'on the other side'. The grace it brings to the whole society, however, has been demonstrated in Northern Ireland and can be replicated elsewhere. Momentum towards change begins by taking decisive steps to call out everyday extremism. It needs to be accompanied by alternative forums for dialogue and a realistic prospect of inclusion in democratic politics on renouncing support for violence. The attuning never ends.

[3] https://www.dialoguestudies.org/articles/the-30th-anniversary-of-a-grassroots-dialogue-in-northern-ireland/

[4] https://sharedfuture.news/opsahl-commission-30th-anniversary-civic-poetry-still-yielding-insights/



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CASE #16

Freedom of expression in an era of extremism

Prism case analysis

This case-study explores a good and a bad example of balances being struck around freedom of expression and the protection of minorities or national security in the face of everyday extremism. The good aspect concerns domestic UK reactions to the 9/11 attacks in the USA in 2001 in a way that prefigures the heated controversies in the UK over reactions to Hamas's attacks in Israel in 2023 and Israel's retaliation. Here the UK courts have provided a helpful approach, revolving around Article 17 of the European Convention on Human Rights. The bad aspect saw the majority of the UK Supreme Court upholding in 2015 the right of the then Home Secretary, Theresa May, to exclude from the UK an exiled Iranian dissident, Maryam Rajavi, who had been invited to address interested Parliamentarians in Westminster. We prefer the dissenting judgment by Lord Kerr, who would have allowed the Iranian dissident to come. By 2023, the Nobel Peace Prize had been awarded to another Iranian dissident, Narges Mohammadi, the US and UK governments considered that Iran was in league with Hamas in its attacks in Israel, a UK government minister had visited Maryam Rajavi in exile in Albania and she was writing in the British press about the momentum of challenges to the Iranian regime, led by women over the previous year. These controversies are often founded on competing alienations or impaired senses of belonging, one group resenting another, with the latter, or a further group feeling that their place in the public square is precarious or even that they are excluded. In some cases, groups can be both resentful and precarious in their sense of belonging. The long run task is one of education and engagement in communities and in society as a whole. It is only in the context of such a commitment to addressing root causes that a short-term exception to freedom of expression might be justifiable.

Case	Context	Belonging	Outcome
Freedom of expression in an era of extremism	Uneasy Exclusionary	Precarious / Resentful Persistent	Modus vivendi Rejection / Transformative

Case Overview

This case-study explores a good and a bad example of balances being struck around freedom of expression and the protection of minorities or national security in the face of everyday extremism. The good aspect concerns domestic UK reactions to the 9/11 attacks in the USA in 2001 in a way that prefigures the heated controversies in the UK over reactions to Hamas's attacks in Israel in 2023 and Israel's retaliation. Here the UK courts have provided a helpful approach, revolving around Article 17 of the European Convention on Human Rights. The bad aspect saw the majority of the UK Supreme Court upholding in 2015 the right of the then Home Secretary, Theresa May, to exclude from the UK an exiled Iranian dissident, Maryam Rajavi, who had been invited to address interested Parliamentarians in Westminster. We prefer the dissenting judgment by Lord Kerr, who would have allowed the Iranian dissident to come. By 2023, the Nobel Peace Prize had been awarded to another Iranian dissident, Narges Mohammadi, the US and UK governments considered that Iran was in league with Hamas in its attacks in Israel, a UK government minister had visited Maryam Rajavi in exile in Albania and she was writing in the British press about the momentum of challenges to the Iranian regime, led by women over the previous year.

A common element in these cases is that they each concern how people in one European country, the UK, react to extremism or terrorism or state repression in other Continents. Passions run high yet there is a dislocation and removal from the scene of the events which means that extremist views can seep insidiously into the public square. Those protesting even vehemently about events in another part of the world might seem to be harmless but often the charge of 'extremism' can be alleged against multiple sides in the underlying controversy. Activists or campaigners are distinguished partly by the way they focus on a particular issue to the point of what they regard as dedication but which others might describe as an obsession. In a series of campaigns, from Black Lives Matter to trans issues to Palestine & Israel, campaigners can nowadays seem intent on testing how everyone in public life (including otherwise private citizens on social media) stands or kneels or speaks on their issue.

The case study is on freedom of expression which is regarded as a fundamental right and a test of any democracy. In the UK, for example, the Human Rights Act 1998 singles out freedom of expression and freedom of religious belief as two rights to which judges must have 'particular regard'. For that same reason, this case study is a test of Article 17 of the European Convention on Human Rights, which is central to recognising and challenging everyday extremism:

> "Nothing in [the] Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention."

Citizens and governments need measured responses, neither suppressing legitimate freedom of expression nor allowing everyday extremism to take hold. If restrictions on freedom of expression are needed, they must only be undertaken where necessary for national security or other good causes, they must be proportionate and they should be envisaged as short-term, with genuine efforts being undertaken alongside, or in the background, to address the underlying causes of such everyday extremism. The extremism is manifested in demands that other people should not speak or protest in the public square or that they should do exactly what they are told. It seeks to be controlling, to dictate the terms on which others can voice opinions or keep their opinions to themselves and yet go about their lives in peace and security.

These controversies are often founded on competing alienations or impaired senses of belonging, one group resenting another, with the latter, or a further group feeling that their place in the public square is precarious or even that they are excluded. In some cases, groups can be both resentful and precarious in their sense of belonging. The long run task is one of education and engagement in communities and in society as a whole. It is only in the context of such a commitment to addressing root causes that a short-term exception to freedom of expression might be justifiable.

Method and Case Justification

One of us is a law professor who is the author of a book on freedom of expression and the other is a professor of social and human rights informatics who has chaired the board of a human rights NGO in Geneva and researched human rights issues around the world.

Our methods, therefore, combine close attention to the detail of legal arguments and judgments and to the context in which particular cases are decided. As academics with practical experience in legal systems in conflict, we do not shy away from criticising a Supreme Court decision. Indeed, this is how the common law develops. Yesterday's minority dissenting judgment can become tomorrow's guiding principle. An independent judiciary, subjected themselves to robust criticism, form a bedrock of the rule of law. They are not infallible but they do at least provide reasons for their decisions. It is up to academics, among others, to test that reasoning.

Moreover, law cases serve an invaluable purpose, beyond resolving a particular dispute, of drawing attention and precision to what might otherwise be vague ideas. Should the law allow you to put this or that slogan on a poster or placard in this or that place in response to this or that event? Is a government minister entitled to refuse entry to the UK by this particular exiled dissident from another country, to suit the strategy of the UK government to engage with, or appease, the current regime of that other state?

To give the rounded context needed for appreciation of the limits to freedom of expression or to its exceptions on the grounds of national security, we have chosen one immediate reaction to an infamous atrocity, 9/11, at the start of this century and one example of a much slower, longer, more meandering saga, where government policy has flip-flopped over two decades. We chose these twin cases because the earlier one exemplifies the pivotal role which Article 17 of the ECHR can play in countering everyday extremism, while the later one shows that yesterday's 'extremist' can be perceived as leading a potential government in exile, aligned with today's Nobel Peace Prize-winner. Between them, they cover issues from 2001 to 2024. They show how European states cannot stay aloof from the consequences of extremism on other Continents.

Context, Belonging, Outcomes

Norwood

Following the 9/11 attacks in 2001, Mr Norwood, a British National Party member, displayed one of his party's posters in a window in his property. There was a complaint. The police took down the poster and prosecuted Mr Norwood. He was convicted and his appeal was rejected. He then took his case to the European Court of Human Rights, which gave its ruling in 2004.

The European Court of Human Rights noted that,

> 'The applicant was a Regional Organiser for the British National Party ("BNP": an extreme right wing political party). Between November 2001 and 9 January 2002 he displayed in the window of his first-floor flat a large poster (60 cm x 38 cm), supplied by the BNP, with a photograph of the Twin Towers in flame, the words "Islam out of Britain – Protect the British People" and a symbol of a crescent and star in a prohibition sign.
>
> 'The poster was removed by the police following a complaint from a member of the public…
>
> 'The applicant was then charged with an aggravated offence under section 5 of the Public Order Act 1986 (see below), of displaying, with hostility towards a racial or religious group, any writing, sign or other visible representation which is threatening, abusive or insulting, within the sight of a person likely to be caused harassment, alarm or distress by it. The applicant pleaded not guilty and argued, in his defence, that the poster referred to Islamic extremism and was not abusive or insulting, and that to convict him would infringe his right to freedom of expression under Article 10 of the Convention.'

Rajavi

As James Lee & Simon Lee explained in a case-note[1],

> 'In *R (on the application by Lord Carlile QC and others) v Home Secretary*,[2] the issue was a challenge to the Home Secretary's refusal to permit an Iranian opposition leader in exile to come to Westminster at the invitation of Parliamentarians, for fear of the unpredictable consequences of an adverse reaction from the Iranian government.'

Mrs Maryam Rajavi was a former leader of a political organisation, Majahedin e-Khalq ('MeK'), living in exile in Paris. She had come to the UK four times in the dozen years before she was excluded in 1997 by the Labour Home Secretary on grounds of foreign policy and opposition to terrorism. MeK was then proscribed under s 3 of the Terrorism Act 2000 between 2001 and 2008 but was now accepted as now non-violent. Other member states of the European Union allowed Mrs Rajavi entry.The former independent reviewer of counter-terrorism law, Lord Carlile QC, and other members of the House of Lords wanted to invite Mrs Rajavi to speak within the Palace of Westminster but the Home Secretary declined to lift the exclusion.

In **Norwood**, the **context** is an **uneasy** one in which there are some who think that they should be free to express their dislike of Islamic terrorism in peaceful but confrontational ways of their own choosing, and seem to **resent** both the presence of Muslim minorities in the UK and any attempt to restrict freedom of speech, while others think this attitude presents a threat to their safety in the UK and that such expressions of this mindset constitute a threat to their **precarious** sense of belonging.

In **Rajavi**, the **context** is an **exclusionary** one in which the opposition to Iran's President Khameini has had to operate in exile and was seeking affirmation from the UK through an opportunity to exercise freedom of expression at the invitation of UK Parliamentarians in Westminster itself. This was denied by the Home Secretary, Theresa May, who refused permission for the leader of this opposition-in-exile even to enter the UK. This was because the government was appeasing Iran.

In **Norwood** (2004), the European Court of Human Rights pointed out that Article 17 of the Convention declared that,

> "Nothing in [the] Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention."

The Court then explained that,

> 'The general purpose of Article 17 is to prevent individuals or groups with totalitarian aims from exploiting in their own interests the principles enunciated by the Convention. The Court, and previously, the European Commission of Human Rights, has found in particular that the freedom of expression guaranteed under Article 10 of the Convention may not be invoked in a sense contrary to Article 17 … '

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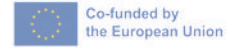
[1] 'Humility in the Supreme Court' https://www.tandfonline.com/doi/abs/10.1080/09615768.2015.1072932

[2] [2014] UKSC 60; [2014] 3 WLR 1404 (*'Carlile' postea*).



After citing various precedents, the Court came to its conclusion:

> 'The poster in question in the present case contained a photograph of the Twin Towers in flame, the words "Islam out of Britain – Protect the British People" and a symbol of a crescent and star in a prohibition sign. The Court notes and agrees with the assessment made by the domestic courts, namely that the words and images on the poster amounted to a public expression of attack on all Muslims in the United Kingdom. Such a general, vehement attack against a religious group, linking the group as a whole with a grave act of terrorism, is incompatible with the values proclaimed and guaranteed by the Convention, notably tolerance, social peace and non-discrimination. The applicant's display of the poster in his window constituted an act within the meaning of Article 17, which did not, therefore, enjoy the protection of Articles 10 or 14.'

The European Court described the BNP as extremist while Mr Norwood described his intended target for criticism as Islamic extremists. In this clash of extremists, the domestic and international court systems stood up for the rights of innocent Muslims in the UK who were entitled not to be tarnished by the extremism of the Al Qaeda 9/11 terrorist attacks in the USA.[3]

The **outcome** is in effect to establish a **modus vivendi** in which a line or pivot point is established by a court applying both UK and international human rights law to particular facts. In this balancing exercise, the court protected those whose **precarious sense of belonging** was undermined, which might have stoked the sense of **resentment** on the other side of the dispute.

Rajavi

The Home Secretary's decision was challenged in the courts, with the claimants' application for judicial review being dismissed by the Divisional Court[4] and the Court of Appeal[5] before the Supreme Court majority also refused to quash the Home Secretary's decision in 2011 not to allow Mrs Rajavi to come from her base in Paris to take up an invitation from British Parliamentarians to speak in Westminster. Lady Hale spoke of the need for judicial humility vis-à-vis the executive in matters of national security and the safety of those for whom we are responsible: 'a court which is properly humble about its own capacities'.[6]

We prefer the reasoning of the lone dissenting Justice in the Supreme Court, Lord Kerr. He had served, as Sir Brian Kerr, as the Lord Chief Justice of Northern Ireland, and had been a terrorist target. Nonetheless, he would have quashed the decision of the Home Secretary.

Lord Kerr accepted that the Executive was in a better position to judge the likely reactions of a volatile foreign government,

> 'But the fact that those reactions are, as recent history unquestionably shows, highly unpredictable should not be left out of account by a court tasked with the duty of deciding whether this particular instance of government's interference with this Convention right is proportionate.'[7]

To that view, Lord Kerr would add that the

> 'wholly undemocratic reaction' of Iran should be regarded as relevant to the proportionality of the interference.[8]

A decade later, a UK government minister has visited the exiled Opposition in their new home in Albania, notwithstanding that earlier scepticism and even more recent criticism of this opposition group as a 'cult'[9]. The UK government has given up its policy of appeasement and has come to recognise once again that the Iranian government is a major source of destabilisation in the Middle East and the wider world. A **persistent** minority has clashed with a regime whose hold on power might be **precarious**. The UK government and Supreme Court majority missed the chance to promote **dialogue** but the **outcome** is that Maryam Rajavi and her supporters, who experienced outright **rejection** for so long, believe that there could soon be a change that is **transformative**.

Iranian dissident women have been better received elsewhere, most recently in the award of the Nobel Peace Prize for 2023 to (and here we quote the awarding committee's citation)

> 'Narges Mohammadi for her fight against the oppression of women in Iran and her fight to promote human rights and freedom for all. Her brave struggle has come with tremendous personal costs. Altogether, the regime has arrested her 13 times,

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[3] https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-67632%22]}

[4] [2012] EWHC 617 (Admin) (Stanley Burton LJ and Underhill J).

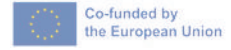
[5] [2013] EWCA Civ 199 (Arden LJ, Patten LJ and McCombe LJ).

[6] Carlile, [105].

[7] Carlile, [173].

[8] Carlile, [174].

[9] https://www.theguardian.com/news/2018/nov/09/mek-iran-revolution-regime-trump-rajavi



> convicted her five times, and sentenced her to a total of 31 years in prison and 154 lashes. Ms Mohammadi is still in prison …
>
> '… This year's Peace Prize also recognises the hundreds of thousands of people who, in the preceding year, have demonstrated against the theocratic regime's policies of discrimination and oppression targeting women. Only by embracing equal rights for all can the world achieve the fraternity between nations that Alfred Nobel sought to promote. The award to Narges Mohammadi follows a long tradition in which the Norwegian Nobel Committee has awarded the Peace Prize to those working to advance social justice, human rights, and democracy. These are important preconditions for lasting peace.'

Maryam Rajavi herself then wrote an article in the most Conservative of the British mainstream quality newspapers, the Daily Telegraph. The headline for her article[10] is, 'The Iranian regime is primed for total collapse'. Her by-line is '*the president-elect of the National Council of Resistance of Iran*'. She explains that,

> 'The events of September 2022 revealed widespread discontent transcending class, region, generation and gender. It was led by women. The middle and lower classes came to the streets in major urban centres and smaller towns. And in spite of the regime's four-decade endeavor to exert control over universities, students played a leading role in the uprising, often receiving resolute support from fellow citizens. There was also unprecedented participation from high school students. This epitomised the people's fervent longing to oust the theocracy, which, for over four decades, has clung to power through brutal repression. Despite its brutality, the regime has failed to eliminate the organised resistance.
>
> 'Western analysts, taken aback by the profound societal discontent, might have been less surprised had they been attuned to recent developments in Iranian society…
>
> 'The Iranian people are resolute in their quest for freedom. The West must now recalibrate its policies consistent with this reality in mind, and abandon the politics of appeasement. It should refrain from offering concessions to the regime, designate the Islamic Revolutionary Guard Corps as a terrorist organization, and acknowledge the Iranian people's inalienable right to resist against tyranny.'

Most tellingly, Maryam Rajavi pointed out that,

> 'Western analysts, taken aback by the profound societal discontent, might have been less surprised had they been **attuned** to recent developments in Iranian society.'

The consequences of the UK government flip-flopping on appeasement of the Iranian regime, and of the UK Supreme Court majority deferring to the executive, can be seen in the same government's new position that Iran is behind Hamas and the tragic events in the Middle East in October 2023. In this context, giving a Westminster platform to an Iranian dissident in 2014 would have had no adverse effects at all and could have enhanced the authority of a leading critic of the totalitarian Iranian regime, much as the Nobel Peace Award Committee has now drawn attention to those leading acts of resistance to an extremist regime.

Synthesis of Rights/Regulations Pathway

This OppAttune study has developed a RRP, which has four types of context, four types of belonging and four types of outcomes. In this section, we reflect on this particular case study as a whole, good and bad, that is to say on the broad sweep of UK law and public policy in the first quarter of this century, when it comes to balancing freedom of expression and the protection of minorities or of public order or safety or of national security.

This issue cannot be categorised as non-conflictual or emancipatory. On the contrary, it is conflict-driven and conflict-ridden, causing division more than leading to greater integration.

In its most recent manifestation, in response to events in the Middle East, it is 'uneasy'. That is to say, if you cannot see some justification in both pro-Israeli **and** in pro-Palestinian responses, or if you do not have some sense of unease in calling for this or that reaction by the UK government, then you have probably not approached the complexities with an open mind.

There is a sense, however, in which the context which comes closest to capturing the nature of this challenge to democracy and human rights is the category of 'exclusionary'. The BNP was beyond the pale in its attempt to use the tragic terrorism of 9/11 to further its own agenda. It sought to stigmatise, possibly to exclude, Muslims in the UK but found itself firmly put in its place by the UK courts and by the European Court of Human Rights. That place is excluded from mainstream democratic politics unless and until it comes back from the line it crossed.

In Rajavi, the UK government missed the uneasy, emancipatory and non-conflictual options in its exclusionary policy,

[10] https://www.telegraph.co.uk/news/2023/09/17/the-iranian-regime-is-primed-for-total-collapse

seeking to find favour with the Iranian regime by excluding from the UK one of its leading critics. This is as if the UK had excluded Mr Navalny from the UK before he courageously returned to Russia to meet an untimely death for which the UK believes President Putin is responsible. As the Nobel Peace Prize has shown, the context in Iran is one in which opponents of the regime should have been supported.

On the angle of the prism which is described as 'Belonging', the aim of public policy should be to protect those whose sense of belonging is precarious yet persistent, so that eventually those who have been resentful come to accept a heightened sense of belonging all round. In other words, a strong judgment against Mr Norwood and greater publicity for Article 17 of the European Convention on Human Rights could lead, in the long run, to the BNP and other resentful groups realising that they will not be allowed to infiltrate extremist views, hostile to minorities, into the public square under the guise of freedom of expression, when in fact they are seeking to undermine human rights and democracy. In this context, it is healthy for Parliamentarians to give platforms to those dissidents from other countries who are arguing for these human rights and for democracy.

The other dimension of the prism is 'Outcomes'. While the BNP was pursuing a policy of rejection, a modus vivendi was found by the courts, maintaining hope for dialogue and eventually for a transformation. Even when the UK government rejected the opportunity to hear from a leader of the Iranian resistance movement, closing down dialogue and ignoring pleas to find a modus vivendi, all was not lost for opponents of the Iranian regime. Indeed, when that Iranian government took ever more draconian actions in response to women protesting through declining to wear the veil in public, the backlash internationally led to the Nobel Peace Prize as a ringing endorsement of the resistance. It is yet to be seen whether this is, in the long run, transformative.

It is at least a sign of the significance and value of protest. Viewed through this prism, what might appear to be discrete events, such as cases in the legal systems of the UK, can connect to the struggle for human rights and democracy, and resistance to terror, elsewhere in the world. The attacks of 9/11 in and on the USA and the attacks within Iran in the 2020s on Iranian women are manifestations of terror. It is not so much a 'war on terror' which is needed in response as an attuning of people everywhere to the realisation that everyday extremism creates the conditions in which terror eventually explodes. Cases in courts can act as a pressure valve or as an early warning system, signalling dangers to come. Even when a case is, in our opinion, wrongly decided, the very act of holding a public hearing, with counsel putting opposing views in open court, followed by independent judges giving reasons for their decisions, is a tool which helps us to craft democracy with respect for human rights and the rule of law. Seen in this light, the most illuminating point of this case study is to view controversies as being subject to Article 17 of the European Convention on Human Rights:

> "Nothing in [the] Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention."

Conclusions

Resolving such uneasy cases is what judges have to do. Unlike politicians, they do not have the power of initiating policy decisions. They have to wait for a case to come to them. But whereas politicians often have the option of playing for time, waiting until after an election or in case some other issue takes away attention, judges have to resolve a case, having listened to both sides and often to third party interventions, subject to appeal to more senior judges.

Setting out clear lines helps all-comers '**attune**' themselves to the rule of law in the public square of that society, so they come to share an understanding of where the balance lies. They could seek to change the balance through the ballot box, electing politicians with a mandate to change the law. Or they can come to moderate their behaviour and respect the position set out by the judiciary.

Most observers admire consistency alongside clarity, so they would wish that judges keep to the balance that they have struck in such a case as **Norwood**. Some, perhaps cynical, critics might take a different line, believing that over time, the judges should occasionally shift the balance so that the resentful do not boil over from extremist rhetoric into violence. Other, perhaps idealistic, critics would want the courts only to ban even extreme speech as a short-term measure and so would wish the courts to keep such a line of authorities under constant review, bearing in mind that the judiciary in the UK are instructed in the Human Rights Act 1998 to have 'particular regard' to freedom of expression.

To their credit, the judges themselves are open to being persuaded that an earlier line they have taken is misguided. Our argument here is that the European Court of Human Rights was manifestly right to deploy the Article 17 point of law against the everyday extremism of Mr Norwood, but Mrs Rajavi was seeking to uphold the fundamental rights and freedoms of democracy in her courageous speech against the Iranian regime. It was a mistake, therefore, to exclude her from the Palace of Westminster when she had been invited by members of Parliament to educate them and the UK public and government

on the nature of the Iranian regime.

To conclude with the more positive point from this case study, the Norwood decision makes an institutional and an intellectual contribution to countering everyday extremism. First, it was the European Court of Human Rights, much criticised by the UK government over the past decade, which has produced an ideal outcome. Second, the Court's invocation and application of Article 17 of the European Convention on Human Rights cuts through the admitted complexities of the issues of conflicting extremisms to offer a fundamental insight. Extremists are disbarred from abusing the rights we all have in their campaigns to destroy the values underlying human rights. Those values include tolerance, social peace and non-discrimination.

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