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Romska diaspora: evangelizem, mreže in nastajanje transnacionalne skupnosti

Milan Bufon

## O teritorialnosti in manjšinah

Prispevek obravnava koncept in pomen teritorialnosti, še posebej razmerje med teritorialnostjo in evropskimi manjšinami. Opažanja so oprta na avtorjevo raziskovalno delo in teoretična razmišljanja uveljavljenih tujih proučevalcev, iz česar izhaja, kako se razmerje med teritorialnostjo in manjšinami vgrajuje v širši proces spreminjanja območij družbenega in kulturnega stika. Sam pojem oziroma diferenciacijo avtohtonih manjšin, predvsem med nacionalnimi in regionalnimi manjšinami, velja v tem kontekstu razumeti kot rezultat družbene modernizacije in teritorializacije v obdobju klasičnega evropskega nacionalizma. Prostorska dimenzija manjšin se je z razvojem bistveno spreminjala, kar je vplivalo tudi na preoblikovanje medetničnih odnosov in možnosti zaščite manjšin. Pri slednjih gre prav tako zaslediti različne pristope, od klasičnih neteritorialnih in teritorialnih do sodobnih integriranih konceptov, ki skušajo družbenokulturno različnost uskladiti z rastočo potrebo po družbeni (re)integraciji in rekonstrukciji evropskih multikulturnih prostorov.

**Gljučne besede:** teritorialnost, nacionalne in regionalne manjšine, kulturne pokrajine, nacionalizem, družbena modernizacija in integracija.

## On Territoriality and Minorities

*The article deals with the concept and meaning of territoriality, and in particular with the relationship between territoriality and European minorities. The author bases his observations on his own research and theoretical discussions provided by international scholars, and suggests that the relationship between territoriality and minorities is embedded in a wider process of transformation of areas of social and cultural contact. The very concept and the differentiation of autochthonous minorities, in particular between national and regional minorities, could be understood in such a context as the result of social modernization and territorialisation in the classic period of European nationalism. The spatial dimension of minorities has with progress significantly changed, producing also important changes to inter-ethnic relations and opportunities for the development of minority protection measures. Here, different approaches could be adopted, ranging from classic non-territorial and territorial to current integrative concepts, the latter aiming to harmonize socio-cultural diversity with a growing quest for social (re)integration and re-construction of European multicultural landscapes.*

**Keywords:** territoriality, national and regional minorities, cultural landscapes, nationalism, social modernization and integration.

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## 1. Uvod: teritorialnost kot sredstvo oblikovanja in preoblikovanja družbenokulturnih in družbeno-političnih prostorov

Teritorialnost je človeku imanentna lastnost, prek katere kot posameznik in pripadnik neke družbene skupine dojema svoje ožje in širše okolje, se z njim identificira in si ga prisvaja. Teritorialnost je zato eden izmed ključnih elementov tako človeške percepcije kot interpretacije prostora, s katerima se ukvarjata politična in kulturna geografija (Bufon 1999a), in se najtesneje navezuje na fenomen oblikovanja in spreminjanja političnih in kulturnih meja v prostoru ter na problematiko prostorske identitete, nacionalizma, manjšin in meddržavnih oziroma medkulturnih odnosov (Bufon 1996, 2004, 2010a). Zaradi procesa teritorializacije se odprt geografski prostor deli v kompleks različnih kulturnih pokrajin, človeštvo pa v sistem ločenih družbenih skupin. Prek tega procesa prihaja po principu homogenosti do sočasnega razgrajevanja širših družbenih in prostorskih enot v neko obvladljivo dimenzijo in do povezovanja tistih elementov, ki se v tem novem okolju sedaj uveljavljajo kot dominantni in temu prostoru določajo njegovo ekskluzivnost in drugačnost. Na ta način prihaja do različnih oblik družbenega in prostorskega razmejevanja, to pa predpostavlja, da določena družbena skupina na območju svoje naselitve uveljavi ne le nek proces prostorskega udomačevanja, temveč tudi proces političnega obvladovanja tako prevzetega teritorija.

Pod pojmom kulturna pokrajina razumemo, da je določeno območje človek s svojo dolgoletno prisotnostjo in delom na poseben način preoblikoval in zaznamoval ter se začel z njim identificirati. Lokalna oziroma regionalna identiteta je zato med vsemi najstarejša in temelji na etnocentrični organizaciji prostora, ki se po svoji naravi nujno uveljavlja kot sistem različnih centrov in periferij, območij družbene koncentracije in dekoncentracije ter konvergence in divergence, ki lahko imajo za različne družbene skupine in posameznike sočasno lastnost domačnosti in tujosti, kot je ugotavljala predvsem francoska antropologija in geografija (cf. Levi-Strauss 1952, Claval 1995). Na obseg kulturnih pokrajin, kakršni sta na primer Bela krajina in Kras, vplivajo v osnovi geografski dejavniki, ki izhajajo iz geomorfoloških in hidrografskega značilnosti območja oziroma izražajo tiste naravne ovire v prostoru, ki so nekoč v splošnem omejevale nadaljnje širjenje posameznih plemen ali etničnih skupin. Prav zato je značilno, da so geografsko bolj razgibana območja, kakršen je na primer alpski prostor, tista, v katerih lahko srečamo tudi kar pestro strukturo različnih kulturnih pokrajin, in da ima na primer mala, a geografsko razčlenjena Slovenija kar okrog petdeset dialektalnih variacij, ki se bolj ali manj ujemajo s številom njenih geografskih podenot (Bufon 1999b, 2002). Večina plemen ali etničnih skupin je v Evropi v času njene kolonizacije prodirala vzdolž vodotokov in se zaustavljala ob orografskih pregradah, zato ni čudno, da so se naši slovenski predniki ob

prodiranju v alpski prostor in sledenju toku alpskih rek v smeri proti zahodu znašli tudi na ozemlju današnje Južne Tirolske, kjer izvira reka Drava in od koder so se morali zaradi sočasnega pritiska močnejših in bolje organiziranih Bavarcev, ki so se v istem okolju znašli ob prodiranju vzdolž reke Inn in njenih pritokov, tudi kmalu umakniti. Ta način kolonizacije alpskega prostora nam prav tako pomaga razumeti, zakaj se je slovensko prebivalstvo znašlo hkrati severno in južno od Karavank ter zahodno in vzhodno od Julijskih Alp in zakaj je ostala komunikacija med temi skupinami na eni in drugi strani gorskih verig (če izvzamemo koridor Kanalske doline, prek katerega je severnoslovenska dialektalna skupina prišla v stik z južnoslovensko in kjer hkrati domujejo sedaj kar štiri etnično-jezikovne skupine (cf. Bufon 2016)) ves čas tako skromna. Ker je eden izmed ključnih instrumentov udomačevanja prostora poimenovanje elementov, iz katerih je ta sestavljen (vodotoki, vrhovi, ledine), nam prav ohranjena lokalna geografska imena pomagajo rekonstruirati obseg nekdanjih kulturnih pokrajin oziroma tradicionalnega naselitvenega prostora različnih etnično-jezikovnih skupin. V Sloveniji in sosednjih območjih so to na primer keltska imena z začetnico Kar- ali Kra-, ki naj bi označevala kamnito ali gorato pokrajino (kot že omenjene Karavanke in Karnijske Alpe ali Kranjska in Kras), prevladujoča nemška imena v francoski Alzaciji ali (v manjšem formatu) slovenska geografska imena, ki so se na ozemlju današnje Italije ohranila v dolinah Dunje in Reklanice oziroma na ravninskem območju zahodno od Doberdobske planote, čeprav velja prav na primeru slovenskih geografskih imen na širšem območju Furlanije opozoriti, da so ta rezultat neavtohtone kolonizacije oziroma načrtne naselitve slovenskega kmečkega prebivalstva, ki so jo med enajstim in štirinajstim stoletjem opravili oglejski patriarhi (Bufon 2016). Veliko evropskih historičnih regij je tudi takih, ki predstavljajo avtohtono območje naselitve različnim etnično-jezikovnim skupinam. Take kulturne pokrajine, kakršna je na primer Istra (Bufon 1993), imajo značilnosti multikulturnih območij in so rezultat dolgotrajnega stika, sobivanja in prepletanja različnih etnično-jezikovnih skupnosti. Po teh svojih značilnostih se te kulturne pokrajine tudi razlikujejo od ostalih, v katerih prevladuje le ena sama etnično-jezikovna skupina.

Iz zgoraj omenjenih primerov izhaja, da so kulturne pokrajine kompleksna in tendenčno trajnejša družbena območja, ki tudi niso nedovzeta za zunanje vplive. Po eni strani težijo k stabilizaciji v okviru nekih ločenih geografskih arealov, ki ob prostorskem ločevanju posameznih družbenih skupin omogočajo tudi njihovo družbenokulturno razlikovanje, po drugi strani pa se lahko tako ločena družbenokulturna okolja zaradi spremenjenih družbenih razmer kar intenzivno spreminjajo. Pri tem prihaja zlasti v modernem obdobju do tesne soodvisnosti med kulturnimi in političnimi mejami, kot je ugotovil že Ratzel (1897) ob razmišljanju o širjenju in krčenju tako imenovanega življenjskega prostora posameznih družbenih skupin (citirano po Bufon 2007). Kasneje je ta koncept razširil predvsem Gottmann, ko je v drugi polovici prejšnjega stoletja

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govoril o statičnih ikonografijah (stanjih), h katerim težijo družbeni sistemi, in dinamičnih silah cirkulacije (procesih), ki zaradi uvajanja različnih inovacij v družbo in prostor ta stanja nenehno razgrajujejo in preoblikujejo (Gottmann 1973). V Evropi se je tako poselitveni prostor glavnih etnično-jezikovnih skupin nekako ustalil po desetem stoletju, na podrobno strukturo posameznih kulturnih arealov pa so kasneje močno vplivala različna politična in družbena dogajanja, ki so izhajala tako iz specifičnih medsebojnih odnosov med skupinami oziroma političnimi akterji kot iz splošnih razvojnih dinamik, ki so zajele evropski družbeni prostor. Te spremembe smo lahko v našem bližnjem okolju – v vsej njihovi dramatičnosti – nazadnje spremljali na območju nekdanje Jugoslavije (cf. Bufon idr. 2006).

Najvplivnejši izraz moderne teritorialnosti, ki ni le etnocentrična, temveč teži hkrati k ekskluzivnemu nadzoru lastnega družbenega prostora po principu suverenosti, je nedvomno nacionalizem, ki je v času od francoske revolucije dalje razširil načelo *cuius regio eius religio* iz dominantne elite na dominantno ljudstvo in s tem težil k peonotanju *ethnosa z demosom* (Bufon 2006, 2008). Nacionalizem je kot politično gibanje spodbujal razvoj državotvornih procesov po načelu državne in družbene (državljske) suverenosti in z njim povezan proces družbene modernizacije, kot kulturno gibanje pa je po načelu etnocentrizma spodbujal razvoj etno-jezikovnih skupin v narode in njihovo ambicijo, da na ozemlju svoje naselitve prevzamejo dominantno vlogo. Ta proces je najprej zajel tiste velike evropske narode, ki so že razpolagali z lastnim političnim sistemom – državo, a se je kmalu razširil tudi na tiste manjšinske narode, ki so se želeli tako emancipirati in doseči vsaj politično avtonomijo, če že ne popolno samostojnost v okviru lastne državnosti. Posamezne etnično-jezikovne skupine so najprej pridobile status narodov s pomočjo jezikovne standardizacije, razvoja šolskega izobraževanja v lastnem jeziku, oblikovanja lastnih središč za razvoj svoje visoke kulture (akademije, univerze, gledališča itd.) ter lastnih političnih strank in nacionalnih političnih programov, s pomočjo katerih so lahko nazadnje pridobile še status nacij, se pravi narodov z lastno državo (Gellner 1997).

Družbeno modernizacijo je nacionalizem nenaključno v najintenzivnejši obliki razvijal v času uvajanja industrijske družbenoekonomske paradigme. Družbena modernizacija je na družbenopolitičnem področju uvajala centralizacijo v upravljanju državnega sistema in s tem podredila celotno državno ozemlje centralni politični oblasti, na družbenoekonomskem področju prek standardizacije državnega gospodarskega sistema odpravila notranje ovire v pretoku ljudi in kapitala, na družbenokulturnem področju pa s pomočjo homogenizacije podredila v državi prisotne manjšinske jezike in kulture dominantnemu, sedaj državnemu jeziku in kulturi (Giddens 1991). Kombinacija vseh treh procesov je privedla do poenotenja pred tem različno obsežnih in neenotnih političnih, gospodarskih in kulturnih prostorov na skupno raven državnega ozemlja ter tako omogočila nastanek modernih unitarnih teritorialnih držav (Rokkan &



Urwin 1983), sprožila pa je tudi veliko novih mednarodnih konfliktov, tako znotraj posameznih državnih sistemov kot med njimi. Ti lokalni konflikti so v povezavi s širšimi geopolitičnimi konflikti med evropskimi silami naposled privedli do izbruha obeh svetovnih vojn in kasnejšega težavnega iskanja novih oblik mednarodnega sodelovanja in povezovanja v Evropi, s katerimi se skuša tako zakoreninjeno, a hkrati tako privlačno različnost njenih kulturnih pokrajin vgraditi v nek sistem funkcionalne in operativne enotnosti (Bufon 2012).

Ta sistem se srečuje s povsem novo situacijo, saj se je sodobni družbeno-ekonomski prostor, posebej ob prehodu iz starega v novo tisočletje, razširil na globalno raven, državnopolitični nadzor nad tokovi v tem prostoru pa je vse težji. Hkrati se v manj hierarhično organizirani poindustrijski družbi krepijo možnosti nekdanjih periferij in s tem tudi v teh okoljih živečih manjšin. V takih razmerah sočasne težnje po globalizaciji družbenoekonomskih tokov, slabenja državne politične ekskluzivnosti, povečevanja meddržavnega sodelovanja in čezmejnih integracijskih procesov se določene družbene funkcije deteritorializirajo in poenotijo, druge pa skušajo – morda prav zato – prek ponovnega odkrivanja lokalnih družbenokulturnih specifik še okrepiti svojo namišljeno ali realno izvorno prostorsko navezanost in tako poudariti lastno “drugačnost” in “posebnost” (Taylor 1994, Keating 1996). Iz tega izhaja, kar smo v svojih delih večkrat poudarili, da so prav tako številna evropska območja družbenega in kulturnega stika in še posebej obmejne in multikulturne regije tiste, v katerih se bo lahko možnost uresničevanja nove paradigme združenosti v različnosti najprej preverila in najkonkretnije udejanjila (Bufon 2010b, 2014a, 2014b). Upoštevati moramo, da je novo razmerje med družbeno integracijo in identiteto temeljito spremenilo tudi sam status in funkcijo obmejnih skupnosti in manjšin. Obmejne in multikulturne regije postajajo na ta način potencialni model nove Evrope, vendar proces združevanja v različnosti zahteva v takem okolju nujno tudi mehčanje obstoječih političnih in kulturnih meja, to pa predstavlja, kot bo razvidno v nadaljevanju, nov izziv sami opredelitvi manjšin in njihovemu odnosu do teritorialnosti.

## 2. Teritorialnost in manjšine: uvajanje nacionalizma v manjšem formatu ali binom, ki izgublja smisel?

Pomen teritorialnosti za manjšine izraža že dejstvo, da v tradicionalni strokovni in pravno-politični obravnavi skorajda ne srečamo manjšin, ki ne bi imele tudi lastne teritorialne dimenzije. V preteklosti so med redke neteritorialne manjšine v Evropi prištevali Jude in Rome, danes pa se v tem okviru vse intenzivneje obravnavajo zlasti ekonomski oziroma novodobni migranti in nedvomno ni naključje, da so prav te skupnosti tiste, ki so bile in ostajajo tradicionalno najmanj zaščitene. Te skupnosti se namreč zaradi pomanjkanja zahtevanega kriterija teritorialnosti (in torej avtohtonosti) težko sprejema oziroma vključuje med

prave in priznane manjšine, saj se od pripadnikov teh skupnosti pričakuje, da se bodo znali ustrezno integrirati (ali asimilirati) v državni *demos* ob opustitvi svojega izvornega *ethnosa* (cf. Castles & Davidson 2000, Aleinikoff & Klusmeyer 2000). V Evropi ostaja namreč avtohtonost, ki predpostavlja teritorializacijo manjšinskih skupnosti, še vedno ključni dejavnik za njihovo pravno priznanje. To je nedvomno rezultat evropskega nacionalizma, ki je pravzaprav ob izumu narodov/nacij povzročil tudi nastanek manjšin kot dobesednih družbenih ostankov v razvoju procesa državotvorja in uveljavljanja državotvornih narodov.

Ti ostanki so zaradi že omenjene dvojne narave nacionalizma prav tako dveh vrst: politični nacionalizem v Zahodni Evropi, kjer so državne formacije obstajale pred razvojem narodov/nacij, je proizvedel regionalne manjšine, kulturni nacionalizem v Srednji Evropi, kjer so narodi nastali pred njim prilagojenimi državami, pa je povzročil nastanek nacionalnih manjšin (Bufon 2004). Prvi je sledil konceptu ena država – en narod, drugi pa konceptu en narod – ena država. Zahodnoevropski politični nacionalizem je zaradi tega odprl vrsto potencialno in dejansko konfliktnih situacij v razmerju med dominantno skupnostjo in ostalimi, perifernimi etno-jezikovnimi skupinami, ki so se morale podrediti prvi in z njo zlit v poenoten državni *demos* znotraj obstoječih državnih okvirov oziroma meja. Srednjeevropski kulturni nacionalizem se sicer deli v dva podtipa, združevalni v Nemčiji in Italiji in ločitveni v srednjevzhodnem in jugovzhodnem evropskem prostoru, ki so ga dolgo obvladovali multinacionalni imperiji, vendar je obema skupno to, da so si skušali v tem okolju že oblikovani narodi pridobiti tudi politično avtonomijo in suverenost s formiranjem lastne države. Proces državotvorja v pogojih kulturnega nacionalizma zato spremlja kar dolgotrajno obdobje razkroja prejšnjih državnih sistemov in uveljavljanja novih državnih meja ter povzroča izrazite mednarodne oziroma meddržavne konflikte. V zahodnoevropskem okolju se značilno kulturna identiteta povsem poenoti z državno (vsi francoski državljani, ne glede na barvo kože ali etnično-jezikovni izvor, so lahko le Francozi), v srednjeevropskem okolju pa se razlikuje med državno in narodno pripadnostjo, ki ostaja od prve pomembnejša oziroma glavni pogoj celo za pridobitev državljanstva; to se posledično podeljuje tudi pripadnikom istega naroda, ki živijo v drugih državah. Skratka, v Zahodni Evropi je s prilagajanjem ali podrejanjem kulturnih prostorov političnim tradicionalno prevladal *demos*, v Srednji Evropi pa je s prilagajanjem ali podrejanjem političnih prostorov kulturnim prevladal *ethnos*.

Konfliktna situacije, ki jih je sprožil evropski nacionalizem, so tako nadomestile ali v novo preobleko odele tradicionalne teritorialne konflikte, ki so jih skušali sproti razreševati z različnimi sporazumi. Pravzaprav so prvo moderno povezavo med kulturno in politično pripadnostjo sprožile verske vojne med katoličani in protestanti, zaradi katerih je bil uveden že omenjeni princip *cuius regio eius religio*. Zato segajo prvi mednarodni predpisi, ki urejajo vprašanje zaščite manjšinskih skupnosti v Evropi, v leto 1555, ko so z augsburškim mirom

poskrbeli za zaščito verskih manjšin v Nemčiji. S tem se uvaja dokaj pragmatičen in še danes veljaven princip, po katerem se pravna zaščita manjšin ne sprejema toliko kot neka demokratična ali univerzalna pravica, temveč večinoma kot instrument preprečevanja ali odpravljanja potencialnih ali dejanskih konfliktov, pa še to le v primeru, ko je nosilec drugačne kulture tudi vojaško-politično dovolj močan in nevaren. Seveda ni naključje, da je bil prvi pravi mednarodni sporazum o zaščiti (tokrat narodnih) manjšin sprejet v času rastočega evropskega nacionalizma, in sicer na dunajskem kongresu leta 1815. Ta je manjšinam načeloma omogočal svobodo veroizpovedi in določene državljanske pravice, ki so jih z berlinskim sporazumom leta 1878 naložili tudi Turčiji in balkanskim državam (Bufon 2004).

Ker so bili notranji konflikti med dominantnimi skupnostmi in perifernimi etnično-jezikovnimi manjšinami (regionalnimi manjšinami) omejeni, saj te niso imele neke matične države, ki bi se potegovala za njihove pravice oziroma njihovo ozemlje, so tovrstne manjšine v Zahodni Evropi povsem izpadle iz politične in strokovne agende, jeziki teh manjšin pa so bili kvečjemu obravnavani kot lokalne, dialektalne variante uradnega državnega jezika. Prav zato so postale pomemben predmet meddržavnih konfliktov narodne oziroma nacionalne manjšine, ki so jih države gostiteljice obravnavale kot nekakšno peto kolono in zato poskušale na različne načine odpraviti, da bi tako odpravile tudi njihove potencialne iredentistične težnje, medtem ko so matične države videle v njih potencialno sredstvo lastne teritorialne ekspanzije. Princip zaščite nacionalnih manjšin, ki so ga skušali razvijati v okviru Lige narodov po prvi svetovni vojni, se je tako soočal s tedaj še močnejšim principom samoodločbe narodov, ki je predstavljal pomemben vzvod Wilsonovih štirinajstih točk in nove evropske ureditve, oba pa sta bila podrejena širšim geopolitičnim razmeram in potrebam, kakor se je lepo izkazalo prav ob začrtanju novih meja med tedanjo novonastalo kraljevino Jugoslavijo in Avstrijo na eni strani ter Italijo na drugi (Bufon 2007). V tem času rojstva nacionalnih manjšin se vsekakor konsolidira tudi njihova opredelitev: narodne ali nacionalne manjšine so tisti deli priznanih narodov ali nacij, ki jih je politična meja oddelila od svojih matičnih narodov oziroma držav. To so pravzaprav družbene skupine, ki jih hkrati opredeljujeta dve meji: na eni strani etnično-jezikovna (kulturna) meja med manjšino in dominantnim narodom, na drugi strani pa državna (politična) meja, ki to manjšino ločuje od matične države in matičnega naroda.

Obdobje klasičnega evropskega nacionalizma je na vsak način čas, ko so vse etnično-jezikovne manjšine povsod podvržene bolj ali manj prisilni in enako intenzivni asimilacijski politiki (v Angliji na primer z uradno anglizacijo vseh keltskih geografskih in osebnih imen, posebej v Walesu, ki se je začela že v šestnajstem stoletju). Za narodne ali nacionalne manjšine pa so se ob koncu devetnajstega in v prvi polovici dvajsetega stoletja v srednjevzhodni in jugovzhodni Evropi vse bolj uveljavljali tudi novi instrumenti razreševanja manjšin-

skih vprašanj oziroma potencialnih ali realnih konfliktov, ki so jih oziroma naj bi jih manjšine predstavljale. To so bile bolj ali manj prisilne deportacije, ki naj bi imele to prednost, da so mnogo hitreje kot asimilacija omogočile poenotenje oziroma prilagajanje kulturnih prostorov in njihovih meja s političnimi. Znane so deportacije Turkov iz Grčije in Grkov iz Turčije po umiku Osmanskega cesarstva in obnovitve samostojne Grčije; podobno so po prvi svetovni vojni Turki z deportacijo oziroma odpravo Armencev gradili svojo moderno unitarno državo. Ta sistem je lahko bil uporabljen tudi kot kaznovanje določenih manjšinskih skupnosti, kot v primeru Stalinovih množičnih deportacij različnih narodov in narodnosti (tako je po Leninu marksistična terminologija razlikovala različne stopnje etnično-jezikovnih formacij) v Sovjetski zvezi ali izгона Nemcev iz srednjevzhodnih evropskih držav po drugi svetovni vojni. Velikokrat je prevzel genocidne poteze in politiko etničnega čiščenja, ki jo je Poulantzas razumel kot skrajno sredstvo "pozgodovinjavanja teritorija in teritorializacije zgodovine" (Poulantzas 1978), kakršnega je zasledoval nacionalizem, in naposled privedel do koncentracijskih uničevalnih taborišč. Deportacijo kot sredstvo razreševanja potencialno konfliktnih situacij, ki so izhajale iz neujemanja političnih meja s kulturnimi, so ne nazadnje sugerirali britanski geografi tudi v primeru razmejevanja med Jugoslavijo in Italijo po prvi svetovni vojni, kar je razvidno iz diskusije v Kraljevi geografski družbi ob predstavitvi nekega dela, ki se je s to mejo in njenimi posledicami prvič intenzivneje ukvarjalo (Moodie 1945); ta se je v mehkejši obliki potrdila v mirovnem sporazumu med obema državama leta 1947, ko so pripadnikom ene in druge manjšine ponudili možnost, da se z možnostjo za matično državo vanjo tudi preselijo, in je v praksi povzročila povojni eksodus za italijansko skupino opredeljenega prebivalstva iz Jugoslavije (Bufon 2017).

Če se je zaradi blokavske delitve evropskega prostora po drugi svetovni vojni v mednarodnem pravu uveljavilo novo načelo nedotakljivosti političnih meja in nevmešavanja v notranje zadeve drugih držav, je tudi manjšinska problematika stopila nekoliko bolj v ozadje. S povečevanjem čezmejnega in meddržavnega sodelovanja so sicer manjšinam začeli pripisovati novo vlogo mostu, vendar se je ta konkretno udejanjila le tam, kjer je bila tudi v širšem interesu obeh sosednjih držav, kot se je to lepo pokazalo na primeru slovenske manjšine v Italiji, prek katere je potekal dobršen del gospodarskih izmenjav med nekdanjo Jugoslavijo in evropskim Zahodom (Bufon 1992). Sicer je bil v tem času v manjšinah razširjen tudi načelni interes za zagotavljanje individualnih človekovih pravic, za katere je skrbel predvsem Organizacija združenih narodov. Z Mednarodnim paktom o državljanskih in političnih pravicah (ICCPR 1966), ki je bil sprejet leta 1966 in je začel veljati deset let kasneje, je bilo določeno, da se v tistih državah, kjer obstajajo etnične, verske ali jezikovne manjšine, pripadnikom teh skupnosti ne sme odreči pravica, da v komunikaciji s pripadniki iste skupine uživajo lastno kulturo, izpovedujejo in prakticirajo svojo vero ali uporabljajo svoj jezik. Po istem

sporazumu naj bi imeli posamezniki pravico, da jih oblasti pri vsakem ukrepu in sodnem postopku obvestijo v jeziku, ki ga bodo sami razumeli. Poudarek je bil torej namenjen individualnim pravicam, odpravi vsakršnega razlikovanja, zagotavljanju enakosti pred zakonom in enakopravnemu uživanju temeljnih državljskih svoboščin na neki načelni in splošni ravni, ki so jo državne politike povečini gladko ignorirale (Bufon 2004).

Ni naključje, da sta se v bolj poglobljeni in celovitejši obliki začeli mednarodna javnost in stroka ukvarjati z manjšinami šele proti koncu prejšnjega stoletja, ko so se potencialni in realni konflikti, povezani z manjšinskimi vprašanji, znova poostriili. K temu je po eni strani pripomogel določen uspeh regionalnih gibanj v zahodnoevropskih državah, s pomočjo katerih so dotlej pozabljene regionalne etnično-jezikovne manjšine ponovno prihajale v ospredje in zahtevale, ponekod tudi s terorističnimi dejanji, ob priznanju njihovega jezika in kulture tudi večjo politično avtonomijo, po drugi strani pa padec berlinskega zidu oziroma vzhodnoevropskih komunističnih režimov, ki je v prostoru srednjevzhodne in vzhodne Evrope ponovno sprožil dotlej zamrznjen proces državotvorja in s tem tudi vse z njim povezane mednarodne konflikte, kot se je to v najekstremnejši obliki pokazalo na območju nekdanje Jugoslavije (Bufon 2006). Z obema fenomenoma se je še najtemeljiteje začel ukvarjati Svet Evrope, ki je za razliko od splošnih deklaracij, kakršne je pripravila OZN, v svoja priporočila vnašal tudi za Evropo tako pomemben teritorialni vidik in mnogo konkretnjša določila. Razlikovanju med regionalnimi in nacionalnimi manjšinami ter političnim implikacijam, ki bi jih prinašalo priznanje kolektivnih pravic pripadnikov manjšin, se je Svet Evrope izognil tako, da je namesto zaščite manjšin izpostavljal zaščito manjšinskih jezikov. Že v Priporočilu o izobraževalnih in kulturnih problemih manjšinskih jezikov in dialektov v Evropi iz leta 1981 (Svet Evrope 1981) je države članice spodbujal k uvajanju tradicionalnih toponimov poleg uradnih krajevnih imen ter k uvajanju manjšinskih jezikov v izobraževalni proces in poslovanje lokalnih oblasti (Bufon 2004).

Posebnega pomena je zlasti Evropska listina o regionalnih ali manjšinskih jezikih, ki jo je Ministrski odbor Sveta Evrope sprejel leta 1992 in se po državah članicah dokončno uveljavlja z njihovo ratifikacijo (doslej je zaradi različnih motivov niso podpisale Belgija, Bolgarija, Estonija, Grčija, Gruzija, Irska, Latvija, Litva, Portugalska in Turčija, ratificirale pa je še niso Francija, Italija in Rusija). Listina najprej opredeli regionalne in manjšinske jezike kot jezike, ki se tradicionalno uporabljajo na določenem ozemlju med prebivalci skupine, ki je manjša od preostalega prebivalstva v državi, oziroma kot jezike, ki so drugačni od uradnega jezika ali uradnih jezikov v državi. Pri tem tudi poudarja, da regionalni in manjšinski jeziki ne vključujejo dialektov uradnega ali uradnih državnih jezikov in niti jezikov priseljencev. Listina nadalje opredeljuje ozemlje regionalnih ali manjšinskih jezikov kot geografsko območje, kjer so ti jeziki način izražanja ustrezno številne skupine ljudi, uvaja pa tudi kategorijo neteritorialnih jezikov,

se pravi manjšinskih jezikov, ki se tradicionalno uporabljajo v okviru državnega ozemlja, vendar se ne navezujejo na kak poseben del tega ozemlja. Listina od držav podpisnic zahteva, da na svojem ozemlju uresničijo vsaj petintrideset paragrafov ali podparagrafov (od tega nekatere obvezno), ki jih navaja v okviru možnih ukrepov za promocijo rabe regionalnih in manj razširjenih jezikov (Bufon 2004). Z dajanjem tako natančnih navodil, katerih izvajanje se nato konkretno periodično preverja (tudi na terenu) in vrednoti, se Evropska listina o regionalnih ali manjšinskih jezikih dejansko uveljavlja kot nov evropski standard na področju varstva manjšinskih jezikov in (implicitno) njihovih nosilcev.

Če upoštevamo še opredelitev manjšin, ki jo je Svet Evrope zavedel leta 1993 v dokumentaciji, ki spremlja Evropsko konvencijo o človekovih pravicah in temeljnih svoboščin, lahko ugotovimo, da je to v prevladujoči evropski normativi skupnost ljudi z naslednjimi značilnostmi:

- bivajo in so državljani določene države;
- vzdržujejo dolgotrajno in močno navezanost na del ozemlja te države;
- izkazujejo ločeno etnično, kulturno, versko ali jezikovno značilnost;
- so številčno dovolj reprezentativni;
- so dovolj motivirani oziroma zainteresirani za ohranjanje svoje skupne identitete, kulture, tradicije, vere ali jezika.

V tem obdobju se je tako na ravni OZN kot Sveta Evrope začelo govoriti tudi o pravici do določene politične avtonomije oziroma samouprave manjšin in domorodnih ljudstev ob implicitnem zavračanju separatizma, govora pa je tudi o pravici pripadnikov manjšin do vzpostavljanja in vzdrževanja čezmejnih stikov z državljani drugih držav, s katerimi so povezani v etničnem, verskem ali jezikovnem pogledu. Okvirna konvencija za zaščito nacionalnih manjšin Sveta Evrope iz leta 1994, ki je sicer manj obvezujoča od Evropske listine o regionalnih ali manjšinskih jezikih, a predstavlja podlago tudi za pridružitveni proces v Evropski uniji (EU), priporoča med drugim določeno avtonomijo za občine, province ali regije, v katerih obstaja visoka koncentracija pripadnikov kulturnih ali jezikovnih manjšin (Marcusse 2001). V praksi nekoliko paradoksalno ta določila oziroma priporočila v manjši meri upoštevajo nove države članice EU, ki bi se načeloma morale ravnati po Okvirni konvenciji in v pridružitvenem procesu ob drugih zahtevah dokazovati tudi zadostno raven zaščite svojih manjšin, v večji meri pa tiste zahodnoevropske države, v katerih je proces regionalizacije in priznavanja regionalnih manjšin bolj napredoval.

Vsekakor se zdi, da morajo biti zakonska določila v korist neke manjšine, če se jih želi konkretno uresničevati, nujno tudi teritorialna, čeprav so lahko pri pristopu različna (Malloy & Palermo 2015): lahko na primer zasledujejo model politične samouprave za določeno ozemlje in vse ljudi oziroma etnično-jezikovne skupine, ki tam prebivajo (primer Škotske v Veliki Britaniji), ali pa lahko teritorialno opredelijo zakonsko pariteto manjšinskih jezikov in kultur,

ki postanejo tako enakopravno dominantni na lokalni ravni (primer Južne Tirolske v Italiji ali otočja Aland na Finskem). Različen pristop lahko zasledimo že pri primerjanju slovenske manjšine v Italiji ali italijanske na območju nekdanje Jugoslavije. Jugoslavija je za zaščito italijanske manjšine, potem ko se je zanjo konkretnije odločila, prevzela model, ki ga je v Sovjetski zvezi že pred tem vpeljal Lenin. Po tem sistemu je oblast, formalno na podlagi historično dokazanega naselitvenega prostora manjšinske skupnosti, *a priori* določila ozemlje, na katerem so predstavniki manjšine dobili določene pravice. Običajno so te pravice manjšine obsegale možnost pridobitve bolj ali manj formalnega lastnega političnega zastopstva in bolj ali manj intenzivno obliko uvajanja jezika manjšine v toponomastiki in izobraževalnem procesu. Po takšnem postopku je neko ozemlje, tako rekoč po dekretu, pridobilo lastnost permanentnega, vendar pretežno formalno organiziranega multikulturnega območja, ne glede na to, v kolikšni meri je bilo v njem manjšinsko prebivalstvo dejansko zastopano. Paradoksalno bi formalno organizirano dvojezično ozemlje v slovenski Istri tako ostalo tudi v primeru, ko v njem ne bi več živel niti en sam predstavnik italijanske manjšine, in prav tako paradoksalno bi moral biti en predstavnik italijanske manjšine še naprej obvezno izvoljen v slovenski parlament, pa čeprav le z enim samim (lastnim) formalnim glasom podpore. Na možnost zlorabe tega sistema je takoj pokazal že Leninov naslednik, Stalin, ki je za neruske skupine največkrat uveljavil ozemlje, ki namenoma ni zajelo celotnega manjšinskega prebivalstva, temveč le njegov del. Na ta način je ostalo rusko prebivalstvo številčno večinsko tudi na avtonomnih ozemljih manjšinskih skupnosti in še naprej obvladovalo lokalno politiko. Objektivna slabost tega sistema se kaže tudi v tem, da njegova rigidnost ne omogoča prilagajanja oziroma širjenja zaščitnih norm, predvidenih za pripadnike priznanih manjšin, teritorialnim spremembam, ki jih prinaša družbeni razvoj, kot bomo videli na primeru Slovencev v Italiji.

Leta 1947 sprejeti mirovni sporazum med Italijo in Jugoslavijo zaradi opravljenih teritorialnih koncesij in upoštevanja principa etničnega ravnovesja med državama (Bufon 2017) ni predvideval nobenih zaščitnih norm niti za italijansko manjšino v Jugoslaviji niti za slovensko v Italiji, temveč je pripadnikom obeh skupnosti, kot smo že ugotovili, omogočal le, da se eventualno odločijo za izselitev v matično državo. So pa bile institucije slovenske manjšine najprej obnovljene v bolj neformalni obliki za časa jugoslovanske uprave po padcu fašističnega režima (društva in šole) in nato v bolj formalni obliki reorganizirane (šolski sistem) ali na novo zastavljene (radio) v okviru angloameriške vojaške uprave na ozemlju cone A Svobodnega tržaškega ozemlja (STO). Z delitvijo STO med Italijo in Jugoslavijo leta 1954 je bil recipročno zasnovan in kot priloga Memoranduma o soglasju (United Nations 1954) sprejet Posebni statut, ki je bil podlaga za narodnostno zaščito obeh manjšin v okviru nekdanjega ozemlja STO (Bufon 1992). Tega so v šestdesetih letih na jugoslovanski strani razširili na način, kot smo ga opisali zgoraj, medtem ko na italijanski strani Memoranduma

o soglasju, s katerim je bil razdeljen STO, niso ratificirali in potemtaka tudi niso vgradili v italijansko zakonodajno prakso določil, ki jih je vnašal Posebni statut. Kljub temu so se v Italiji smiselno ravnali po njem, saj niso odpravili ravni zaščite, ki je bila za Slovence na Tržaškem formalno vpeljana za časa angloameriške uprave, in so *via facti* priznali podobne pravice, ki jih je tam po letu 1943 prav tako vpeljala že jugoslovanska uprava, tudi Slovencem na Goriškem. To je pomenilo priznanje javnega izobraževanja v slovenskem jeziku po sistemu, kakršen je obveljal tudi na jugoslovanski strani za italijansko manjšino, in uvajanje dvojezične toponomastike in internega dvojezičnega poslovanja v občinah z dovolj konsistentno prisotnostjo manjšinskega prebivalstva. Tu se torej italijanski model določanja uradnega dvojezičnega ozemlja bistveno razlikuje od jugoslovanskega, saj v osnovi sledi določilom Posebnega statuta, ki je predvideval, da se dvojezična toponomastika in interno dvojezično poslovanje na ravni občin uvedeta tam, kjer predstavljajo pripadniki manjšin vsaj 25 odstotkov skupnega prebivalstva. Iz tega sistema je bilo izvzeto omrežje šol s slovenskim učnim jezikom, ki so jih že prej obnovili tudi ali predvsem v občini Trst, kjer je bilo v absolutnem pogledu Slovencev sicer največ, a v relativnem pogledu (po rezultatih uradne statistike) premalo, da bi bil tej občini priznan status dvojezičnega ozemlja.

Opozoriti velja na to, da zahtevani minimalni deleži manjšinske zastopnosti, kakršni veljajo na primer tudi na avstrijskem Koroškem, ne izhajajo iz neke objektivne verifikacije zgodovinske prisotnosti v nekem stabilnem, predindustrijskem času, temveč iz trenutnega ali vsaj novejšega stanja, kakršnega naj bi odlikovali sodobni popisi prebivalstva. Tu se zato odpirata dve temeljni vprašanji: v kolikšni meri lahko statistika verodostojno beleži etnično-jezikovno strukturo prebivalstva in ali lahko sodobna etnično-jezikovna struktura zaradi spremenjenih družbenih razmer še izraža stanje, na podlagi katerega je bila izdelana podoba avtohtonosti obravnavane manjšine. Kot smo v uvodu že naglasili, se je etnično-jezikovna struktura Evrope konsolidirala v predindustrijskem času in ostala dolgo časa dokaj stabilna. Na to strukturo in njeno spreminjanje pa sta nato vplivala zlasti dva procesa: nacionalizem s težnjo po kulturni homogenizaciji državnega ozemlja in industrializacija, ki je povzročila izseljevanje prebivalstva iz bolj perifernih območij in njihovo koncentracijo v urbanih in industrijskih središčih.

Na primeru Slovencev v Italiji smo ugotovili (Bufon 1992, 2003), da je ta skupnost, podobno kot mnoge druge etnično-jezikovne manjšine, doživela tri razvojne faze. V prvi fazi statične ruralne družbe je bilo podeželje skoraj brez izjeme kompaktno in kontinuirano poseljeno s slovenskim kmečkim prebivalstvom, urbana središča znotraj ali na robu slovenskega etničnega ozemlja pa so bila etnično mešana. Med obema tema družbenima enotama ni bilo veliko komunikacije, sicer pa so bile v tem času etnično-jezikovne razlike sprejete kot nekaj normalnega in nemotečega. V drugi fazi labilnih inovacijskih procesov



industrializacije, ki je v našem okolju potekala v večjem delu dvajsetega stoletja, sta se blagovna in družbena komunikacija med mesti in podeželjem povečali, a sta potekali pretežno enosmerno, z intenzivnim demografskim pretakanjem iz podeželja v mesta, ki so na ta način povečevala tudi svojo gospodarsko moč in gravitacijski vpliv v prostoru. S tem se je ustvarila neka prostorska hierarhizacija oziroma polarizacija družbenega prostora, ki jo je po prvi svetovni vojni nacionalistična družbenokulturna hierarhizacija z delitvijo med izbrano dominantno skupino in na asimilacijo obsojeno manjšino še poglobila. Asimilacijski pritisk je bil najmočnejši v urbanih središčih, vse manj intenziven pa proti ekstremom mestnih vplivnih središč. Prav zato so se evropske manjšinske skupnosti praviloma najlažje ohranile na robnih in najbolj perifernih območjih državnih sistemov, ki jih modernizacijski vplivi niso dosegli in so lahko ohranili tradicionalno ruralno strukturo. Je pa tudi res, da je prav prestop iz ruralnega v urbano okolje pripadnikom manjšin omogočil, da so se prek šolanja in druženja v manjšinskih društvih in institucijah, ki so se istočasno z večinskimi razvijala v etnično mešanih mestih, lahko aktivneje vključevali v lastno nacionalno opredeljeno okolje in tako krepili svojo narodno zavest.

Prav zaradi tega je prišlo do temeljnega razlikovanja med Slovenci v večnacionalnem avstrijskem okolju, ki so se lahko vključili v vseslovensko nacionalno prebujanje (v našem primeru so to bili Slovenci na Tržaškem in Goriškem, a tudi tisti v Kanalski dolini), in tistimi, ki v ta proces niso bili zajeti (Slovenci v Beneški Sloveniji in Reziji). Če lahko pripadnike prve skupine zato upravičeno in brez zadržka opredelimo kot pripadnike slovenske narodne oziroma nacionalne manjšine, moramo pripadnike druge skupine po njihovi etnični izvornosti, jezikovnih značilnostih in neposredni teritorialni navezanosti na matični narod prav tako uvrstiti v isto manjšinsko skupnost kot njihove tržaške in goriške rojake, a moramo hkrati upoštevati, da ta skupina zaradi pomanjkanja ločene narodnostne zavesti v bistvu deluje kot etnična manjšina brez izrazitejšega samozavedanja. V tej fazi se ustvari pomembno razlikovanje med objektivno in subjektivno pripadnostjo: prva je značilnejša za ruralne etnične manjšine, druga pa za urbanizirane narodne manjšine. Pripadnike prve skupine lahko določimo glede na njihov etnični izvor in njihovo jezikovno prakso, a ne nujno po njihovi lastni opredelitvi, pripadniki druge skupine pa se subjektivno opredeljujejo za neko etnično-jezikovno ali narodno skupnost, včasih tudi neodvisno od njihove dejanske objektivne pripadnosti. To razlikovanje je v pravno in politično prakso kasneje vpeljalo vprašanje, ali naj država zaščitne norme za manjšine sprejme le takrat in na območjih, ko in kjer te izkazujejo dovolj močno subjektivno identiteto, ali tudi tedaj in tam, ko pri manjšinah prevladuje zgolj objektivna pripadnost (Lijphart 1995). Razlike med objektivno in subjektivno pripadnostjo so že takrat otežile možnosti natančnejše kvantifikacije manjšinskih skupnosti, saj so asimilacijske politike težile k temu, da bi se čim večji delež oseb, ki po objektivnih kriterijih pripadajo manjšinski skupnosti, po subjektivni izbiri

uvrstil med pripadnike večinske skupnosti. Za take osebe je avstrijska statistika na Koroškem celo uvedla novo kategorijo vindišarjev, se pravi tistih oseb, ki se iz slovenske etnične skupine bolj ali manj zavestno in prostovoljno pomikajo proti nemški. Podoben razkorak med objektivno in subjektivno pripadnostjo smo ugotovili na primeru Slovencev v Italiji: na Tržaškem in Goriškem se je bila približno polovica oseb, ki objektivno pripada slovenski etnično-jezikovni skupnosti, pripravljena izjaviti za slovensko narodno pripadnost, medtem ko se v Beneški Sloveniji ta delež zniža le na petino objektivno ugotovljenih Slovencev (Bufon 1992).

Podobna dilema se je razširila na jezikovno prakso manjšinskih skupnosti, kjer je včasih težko razlikovati med dialektom in pravim jezikom. V splošnem je tudi tu obveljalo pravilo, po katerem se kot jezik opredeljuje tista jezikovna varianta, katere nosilci se v določenem obdobju in na določenem ozemlju uveljavijo kot ločena dominantna skupnost. Lahko bi torej rekli, da se lahko kot jezik v bistvu uveljavi vsakršen dialekt, ki pridobi zadostno politično moč, kot se je spet lepo pokazalo na primeru nekdanje Jugoslavije in delitve nekdanj skupnega srbohrvaškega jezika ne le na srbski in hrvaški jezik, temveč tudi na bošnjaški in črnogorski jezik. To vprašanje je pridobilo pomen v Evropi tudi zato, ker se zaščitne norme praviloma uporabljajo, kot smo videli, za manjšinske jezike, ne pa za dialekte. Razlikovanje med obema je lahko dokaj sporno, saj se na primer v Italiji za status manjšinskih jezikov potegujejo tudi različni tradicionalni dialekti, kot je veneto na območju istoimenske dežele, mnogi strokovnjaki pa menijo, da nekateri sedaj priznani manjšinski jeziki, kot na primer furlanščina, niso nič drugačni od drugih navadnih italijanskih dialektov. Dileme nastanejo tudi znotraj posameznih priznanih manjšinskih jezikov: ali mora biti ta zaščiten oziroma pridobiti uradno veljavo le v svoji standardizirani, knjižni obliki ali tudi v njegovi tradicionalni lokalni dialektalni (in v praksi uporabljeni) varianti. Kot je to lepo opaziti na primeru Slovencev v Italiji, prevladuje javna raba standardizirane slovenščine v okoljih z izrazitejšo subjektivno narodno pripadnostjo (tržaško in goriško ozemlje) oziroma dovolj razvitim šolskim sistemom in uveljavljenimi višjimi kulturnimi institucijami, medtem ko se dialektalna varianta uveljavlja tam (na območju videmske pokrajine), kjer pripadniki slovenske manjšine ne razpolagajo s temi elementi oziroma niso mogli razviti lastne narodne zavesti (Bufon 2016, 2017). V takem okolju, kjer nad narodno izrazito prevladuje lokalna identiteta in se teritorialno ločevanje povezuje z družbenim ločevanjem od ostalega etnično-jezikovnega izvornega okolja, se zdi vsiljevanje lokalnemu okolju povsem tuje standardizirane slovenščine podobno asimilacijskim težnjam, ki jih do pripadnikov manjšin izvajajo dominantne skupnosti, in ga zato lokalna skupnost na podoben način zavrača oziroma skuša temu nasprotno lastni jezik (dialekt) uveljaviti tudi kot izraz svoje ločene teritorialnosti.

Vsekakor je za fazo modernizacije dokaj tipična družbenokulturna migracija iz manjšinskega v večinsko okolje, ki jo pogosto spremlja tudi dejanska prostor-

ska migracija pripadnikov manjšin iz svojega tradicionalnega okolja v urbana in industrijska središča. Fizična, prostorska migracija je tipična za ekonomske migrante in se navadno navezuje na družbenokulturno migracijo iz ene etnično-jezikovne skupine v drugo, saj se priseljenci praviloma hitreje in zavestneje integrirajo (asimilirajo) v večinsko okolje, ker lahko tako tudi hitreje napredujejo po družbeni lestvici. Še posebej v pogojih večje in vidnejše družbene distance med dominantno skupnostjo in priseljenci se slednji lahko med seboj povezujejo in skušajo tudi v novem okolju oblikovati bolj sklenjeno naseljitveno strukturo (tako imenovani *cluster*), da bi lahko v tej svoji novi mali domovini rekonstruirali oziroma ohranili svoje izvirne kulturne značilnosti, kot v primeru številnih Chinatowns na Zahodu (Castles & Davidson 2000). V zvezi z družbenokulturnimi posledicami migracij velja izpostaviti tudi dejstvo, da neka kulturna pokrajina tendenčno ohranja svoje značilnosti tudi še po tem, ko so se iz nje izselili njeni tradicionalni nosilci, kot lahko na primer opazimo v slovenski Istri: priseljenci z različnih območij Slovenije in nekdanje Jugoslavije, ki so po drugi svetovni vojni nadomestili izseljeno italijansko prebivalstvo, so se kmalu zlili v novi primorski milje in se začeli povsem poistovetiti z njim (Bufon 1993).

Tudi ti primeri nam ilustrirajo pomen teritorialnosti pri ohranjanju ločenih etnično-jezikovnih in splošnih kulturnih značilnosti neke družbene ali prostorske enote. Če se vrnemo na primer Slovencev v Italiji, lahko ugotovimo, da se je zaradi migracij iz hribovitih predelov v nižinska urbana in industrijska središča, ki so bila na območju Beneške Slovenije posebej intenzivna v času pred in po potresu leta 1976, slovenski etnični prostor objektivno razširil in sedaj zajel tudi bližnje občine v pasu med Čedadom in Vidmom, kjer naj bi po ocenah živelo do 10.000 oseb slovenskega izvora (Bufon 1992), vendar pa je ta relativno omejen prostorski premik pomenil za migrante tudi prestop v neko povsem drugačno kulturno okolje in razkrojil prejšnji kompaktni poselitveni vzorec. Zaradi tega se je močno zmanjšala možnost, da bi se pri tem prebivalstvu objektivna etnična pripadnost razvila v subjektivno, tudi zato, ker se zaščitne norme v korist slovenskega prebivalstva, ki so jih v videmski pokrajini začeli uvajati šele po letu 2001, omejujejo na območje avtohtone manjšinske poselitve, to pa je prav zaradi dolgoletne emigracije sedaj že skorajda izpraznjeno. Temu nasprotno lahko na istem območju ugotovimo, kako pomembno je za neko manjšinsko skupnost, da v procesu družbene modernizacije krepí lastni centralni kraj in v njem tiste centralne funkcije, ki omogočajo utrjevanje narodnostne identitete. Kot sta bila v avstrijskem obdobju taka centralna kraja za tržaške in goriške Slovence Trst in Gorica, je postal kasneje za Beneške Slovence (čeprav v mnogo manjšem obsegu) tak kraj Špeter, kamor se pahljačasto steka dobršen del Nadiških dolin. Zato ni naključje, da so (sicer šele leta 1984) organizacije Slovencev v Italiji prav tu ustanovile dvojezično šolo, ki naj bi v povezavi z drugimi slovenskimi društvi in ustanovami omogočila lokalnemu slovenskemu prebivalstvu, da ob učenju slovenskega jezika razvija še svojo etnično oziroma narodnostno identiteto.

Z vidika etnične pripadnosti lahko zaključimo, da je prav faza labilnih inovacijskih procesov industrializacije in z njo povezane deagrarizacije najbolj kritična, saj vodi po eni strani k demografski eroziji avtohtonega manjšinskega ozemlja in v skrajni posledici do propada dela kulturne pokrajine, po drugi strani pa k preseljevanju manjšinskega prebivalstva in njegovega bolj ali manj intenzivnega utapljanja v neavtohtono okolje. Ta proces je posebej zaskrbljujoč tudi zato, ker se praviloma normativno-zaščitni ukrepi, ki jih oblasti sprejemajo v korist manjšinskega jezika in kulture, po ustaljeni praksi naslanjajo na teritorialni obseg manjšinskega avtohtonega naselitvenega ozemlja, in prav zato pomeni umik s tega območja mnogokrat tudi izgubo lastne kulturne podlage in korak k asimilaciji. Na tej točki se srečujemo še z zadnjo, tretjo razvojno fazo, ki jo zaradi močnega porasta terciarnih dejavnosti opredeljujemo tudi kot poindustrijsko obdobje. Tudi ta družbena inovacija se najprej uveljavi v urbanih središčih, od koder se s procesom družbene urbanizacije mnogo bolj kapilarno in manj selektivno oziroma hierarhično kot predhodna širi v prostoru. Družbena oziroma socioekonomska struktura se z zaposlovanjem podeželskega prebivalstva v terciarnem sektorju poenoti, vezi med mesti in njihovim zaledjem se ne le močno povečajo, temveč tudi niso več le enostranske, saj prihaja s povečevanjem prostorske mobilnosti in širjenja obsega dnevnih migracij tudi do tako imenovane protiurbanizacije oziroma izseljevanja urbanega prebivalstva na podeželje.

To je torej faza prostorsko odprtega in stabilnega formiranja urbane družbe, ki prinaša kar intenzivno preoblikovanje dotlej vsaj v objektivnem pogledu prevladujoče etnične strukture podeželja, saj se na manjšinsko avtohtono (historično) ozemlje priseli rastoče število neavtohtonega (mestnega) prebivalstva. Hkrati se v večja mesta začenjajo priseljevati še migranti iz drugih, povečini neevropskih območij, kar nadalje spreminja tradicionalno etnično strukturo evropskega prostora. Še posebej v zaledju večjih mest postaja zato tradicionalno manjšinsko etnično ozemlje vse manj čisto in prevzema strukturo etnično mešanega ozemlja, v okviru katerega se tesno prepletata večinsko in manjšinsko prebivalstvo. Istočasno s socioekonomsko se zmanjšuje tudi družbenokulturna distanca med obema skupinama prebivalstva in se posledično povečuje število mešanih zakonov. Za razliko od preteklosti pa ta družbena integracija ne vodi nujno v asimilacijski *melting pot*, saj postajajo manjšinska kultura, identiteta in jezikovna praksa enakopravnejše z večinsko in se zato v večji meri prenašajo tudi na naslednje generacije. Namesto enodimenzionalne identitete, kakršno so po načelu *aut-aut* zahtevali v času nacionalizma prevladujoči družbeni vzorci (in po katerih so se ravnali tudi popisi prebivalstva), se torej v tej fazi vse bolj uveljavlja večdimenzionalna, multipla identiteta, ki ne le ohranja, temveč marsikje celo krepi multikulturno podobo številnih evropskih območij oziroma historičnih regij (Bufon 2010b). V bolj sproščenem družbenem okolju pridobivajo manjšine, predvsem zaradi izboljšanja lastnega socioekonomskega položaja, tudi večje

možnosti za razvijanje pobud v podporo svojih družbenokulturnih značilnosti in samega teritorialnega razvoja, s čimer se krepi tudi specifična podoba kulturne pokrajine oziroma avtohtonega manjšinskega poselitvenega ozemlja, ne glede na to, da se v njem tendenčno zmanjšuje število objektivno evidentiranih pripadnikov manjšinskih skupnosti. Sodobne avtohtone manjšine se namreč kažejo kot vse manj homogene oziroma čiste etnične skupine po objektivnih kriterijih, njihovi pripadniki pa tudi niso le pasiven predmet asimilacijskih teženj dominantnih skupnosti, saj se v manjšinskih ali etnično mešanih okoljih večinoma uveljavljajo politike podpore in zaščite manjšinskih jezikov in kultur. Posledično znotraj manjšinskih skupnosti popuščajo tudi tisti obrambni mehanizmi, ki so vodili do njihovega družbenega zapiranja in skorajda folklornega zatekanja v najpristnejše (čeprav preživele) elemente lastne istovetnosti. Posamezniki, pripadniki tako večinske kot manjšinske etnično-jezikovne skupine, lahko sedaj svobodneje izbirajo zanimivejše ali funkcionalnejše kulturno okolje oziroma se med obema lahko svobodneje in neobremenjeno gibljejo ter s sočasnim vključevanjem tudi v drugo jezikovno okolje dejansko ustvarjajo manj polarizirano multikulturno družbeno strukturo.

V takih pogojih vse bolj odkrivamo in sprejemamo dejstvo, da lahko različne identitete in jezikovne prakse obstajajo v istem upravnem ali družbenem okolju oziroma da meje med različnimi družbenokulturnimi prostori niso linearne in določene, temveč conalne in premične, kar seveda ustvarja zelo kompleksen in razčlenjen družbeni prostor, za katerega lahko uporabimo izraz kontaktno območje (Bufon 2008). V njem nenehno prestopamo različne kulturne meje in zaradi tega so v teh okoljih kulturni prevzemi in izmenjave nekaj povsem vsakdanjega in običajnega. To nenehno vrenje na robovih kulturnih pokrajin, ki omogoča tudi njihovo medsebojno oplajanje in prelivanje in ki se je zdelo ekskluzivnemu nacionalističnemu konceptu morda prav zaradi tega tako nevarno in nezaželeno, pa ne pomeni, da se bistvene lastnosti evropskih kulturnih prostorov s časom radikalno spreminjajo. Ti namreč ostajajo presenetljivo stabilni ali se z umikom državnega homogenizacijskega pritiska še celo krepijo ali ponovno prebujajo. S tem se uveljavljajo tudi tradicionalni lokalni ali regionalni teritorialni okviri, ki jim decentralizacija državnega upravnega sistema daje funkcionalno vrednost in ki jim uspe vlti svojo kulturno specifiko tudi vsem tistim priseljencem, ki se želijo bolje in globlje integrirati v svoje novo življenjsko okolje.

Ta proces odpira različne razvojne možnosti oziroma povzroča različne posledice obema glavnima skupinama teritorialnih manjšin: nacionalnim in regionalnim manjšinam. V splošnem bi lahko rekli, da se v tej fazi krepi teritorialna dimenzija in s tem tudi prepoznavnost drugih, slabita pa pri prvih. Nove, bolj tekoče ali interakcijske etnične formacije se namreč še najbolj približujejo modelu dinamičnih gravitacijskih teles, pri katerih se okrog nekega kompaktnega težkega jedra vrstijo v pogledu etnične čistosti vse manj goste

plasti, ki ne interagirajo le s svojim matičnim jedrom, temveč v vse večji meri tudi z zunanjim okoljem oziroma z drugim najbližjim ali drugimi najbližjimi težkimi jedri. Ustvarja se torej neko dinamično medkulturno okolje v situaciji etničnega kontinuuma, kot smo to ugotovili na primeru Slovencev na Tržaškem in Goriškem, kjer se okrog 10 odstotkov prebivalcev etnično mešanega območja izjavlja za Slovence, okrog 20–25 odstotkov je imelo slovenske starše in ima otroke, ki razumejo ali govorijo slovensko, okrog 30–35 odstotkov pa jih ima vsaj zakonskega partnerja, ki razume ali govori slovensko (Bufon 1992). Toda zmanjševanje družbene distance med večinsko in manjšinsko skupino pomeni tudi to, da so sama jezikovna praksa, jezikovni izvor in jezikovni medgeneracijski prenos, ki smo jih v zgoraj navedenem delu še lahko uporabljali za določanje objektivne etnično-jezikovne pripadnosti, v novih pogojih vse manj uporabni indikatorji, saj se je v zadnjih desetletjih močno povečalo učenje slovenskega jezika tudi med otroki, ki izhajajo iz mešanih oziroma neslovenskih družinskih okolij, slovenščina pa se tudi v uradnih govornih položajih enakovredneje uporablja ob večinskem jeziku in postaja ob povečanih čezmejnih funkcionalnih vezeh zanimivejša tudi za neslovensko prebivalstvo.

Raziskave, ki jih je opravil Slovenski raziskovalni inštitut (SLORI) v zadnjem obdobju, so na primeru Slovencev v Italiji pokazale (cf. Bufon 2017), da v otroških vrtcih in osnovnih šolah s slovenskim učnim jezikom izhaja iz slovenskih družin le še 25 odstotkov otrok, iz mešanih družin 40–45 odstotkov, iz neslovenskih družin pa kar 30–35 odstotkov otrok – ti izhajajo tudi iz priseljenih družin z območja nekdanje Jugoslavije. Zelo različna ostaja ta struktura med mesti in podeželjem, kar posebej velja za deleža otrok iz popolnoma slovenskih ali neslovenskih družin: prvi obsega v mestnem okolju le okrog 15 odstotkov in na podeželju 50–65 odstotkov; drugi obsega v mestnem okolju 40–45 odstotkov in na podeželju le okrog 10 odstotkov. Iz tega izhaja, da se nova multikulturna etnično-jezikovna struktura izraziteje uveljavlja v mestih, kjer se koncentrira tudi večina tako imenovanih novodobnih manjšin oziroma tujih priseljencev, persistentnejša ali tradicionalnejša pa je etnično-jezikovna struktura na podeželju. A tudi tu moramo razlikovati med tistim podeželskim okoljem, kjer je subjektivna identiteta močnejša, in tistim, kjer se ta v obdobju narodnega prebujanja ni uspela razviti. Tako govori s starši slovensko okrog 50 odstotkov učencev in dijakov šol s slovenskim učnim jezikom na tržaškem podeželju, a manj kot 5 odstotkov učencev in dijakov dvojezične šole v Špetru na mnogo bolj perifernem območju Beneške Slovenije, kjer očitno šoli sami po sebi ne uspe revitalizirati tistega manjšinskega jezika, ki je v procesu modernizacije in z njo povezane družbene erozije izgubil svojo funkcionalnost in svoj smisel.

Pri nacionalnih manjšinah prihaja torej v sodobnem času do različnih, tudi protislovnih sprememb. V urbanih okoljih se širi obseg potencialnih govorcev manjšinskega jezika, vendar te potencialne nove govorce vse težje avtomatično vključujemo v tradicionalno manjšinsko družbeno okolje, s katerim se morda

ne povezujejo niti v objektivni niti v subjektivni obliki. Posledično se zdi, da se v kontekstu širjenja multikulturnih praks to družbeno okolje zmanjšuje vzporedno s krčenjem tradicionalnega, bolj ali manj ekskluzivnega manjšinskega ozemlja. Ta težnja je še toliko večja pri tistih nacionalnih manjšinah, kjer je zaradi njihove obmejne lege stopnja teritorialne in demografske kompaktnosti manjša oziroma kjer se objektivna etnična pripadnost ni uspela razviti tudi v subjektivno. Obmejne nacionalne manjšine pogosto tudi ne razpolagajo z nekim lastnim centralnim krajem in redkeje celo na lokalni ravni (na nivoju regij ali celo posameznih občin) predstavljajo večino prebivalstva posameznih upravnih enot. To pomeni, da si te skupnosti težje zgradijo neko lastno težko jedro, v katerem bi imel manjšinski jezik tudi večjo uporabnost, se pa lahko v novih pogojih povečanega meddržavnega sodelovanja lažje povezujejo s kulturnim okoljem matičnega naroda oziroma lahko pridobijo ob podpori obeh sosednjih držav tudi večjo potencialno funkcijo medkulturnih povezovalcev (Bufon 2014a). Vsekakor postaja situacija oziroma struktura nacionalnih manjšin v pogojih sodobne odprte družbe zaradi številnih notranjih in zunanjih vpetosti tako kompleksna, da ji ne znamo več načrtati nekih jasnih teritorialnih in identitetnih meja, niti ne kakih konkretnjših kvantitativnih dimenzij. Odpravljanje notranjih (poddržavnih) in zunanjih (meddržavnih) družbenih in političnih ločnic, za katere so si navsezadnje prizadevale tudi ali predvsem nacionalne manjšine, je povzročilo morda nesluten postranski rezultat: z brisanjem in mehčanjem nekdanj jasno načrtanih etničnih in političnih meja, po katerih so bile nacionalne manjšine nekoč opredeljene in priznane, se odpravlja tudi pojem manjšin in s tem njihov posebni status, saj ne obstajajo več prejšnji zadržki za njihovo polno, sočasno in enakopravno vključevanje tako v *demos* kot v *ethnos* držav, s katerima je obmejno in etnično mešano prebivalstvo enako povezano (Bufon 2010b). Pri nacionalnih manjšinah se zato situacija etničnega kontinuuma vgrajuje v nek nov kontekst meddržavnega kontinuuma. V njem te skupnosti vse bolj izgubljajo svojo ločeno specifičnost in se vse bolj stapljajo v širšo družbeno strukturo čezmejnega kontaktnega območja in družbenih procesov, ki se v njem razvijajo.

Drugače je z regionalnimi manjšinami in teritorialno kompaktnimi nacionalnimi manjšinami, kakršna je na primer nemška skupnost na Južnem Tirolskem. Manj hierarhično organizirana družba, kakršna je značilna za poindustrijsko obdobje, je v Zahodni Evropi v zadnjih dveh desetletjih prejšnjega stoletja omogočila, da se je sprožil proces družbenoekonomske decentralizacije in politične regionalizacije, ki je regionalnim skupnostim in regionalnim manjšinam prinesel večjo avtonomijo in več možnosti samouprave na njihovem avtohtonem naselitvenem ozemlju. Ponovno je prišlo do svojstvene povezanosti družbenih, kulturnih in ekonomskih interesov v okviru istega teritorialnega sistema, ki jo je mogoče strniti v geslo "več (regionalnega) razvoja ob večji (kulturni) različnosti in večji (politični) avtonomiji" (Bufon 2004). Dolgo pozabljene regionalne manj-

šine so v teh pogojih doživele svoj etnični *revival* in možnost, da razvijejo svoj nacionalizem na podoben način, kot so ga dominantni narodi pred njimi v obdobju klasičnega nacionalizma. V tem pogledu lahko upravičeno opredelimo evropski regionalizem kot nacionalizem v manjšem formatu, čeprav je zaradi zelo velikega številčnega razpona med evropskimi narodi dejansko težko postaviti neko preprosto ločnico med pravimi narodi in regionalnimi manjšinami, kot nam to zelo lepo ilustrira primer slovenskega naroda, ki je po številu pripadnikov približno trikrat manjši od Kataloncev in je imel zato v mednarodni literaturi do osamosvojitve prav tako status regionalne skupnosti. Je pa tudi res, da v večini primerov zahodnoevropski regionalni nacionalizem, morda tudi zato, ker se razvija v okoljih, kjer *demos* tradicionalno prevladuje nad *ethnosom*, ne stremi toliko k oblikovanju nekih ločenih političnih sistemov in popolni politični samostojnosti, kolikor k večji regionalni avtonomiji in upravljanju regionalnih virov (davkov). Je torej bolj pragmatičen kot ideološki. Ta del Evrope zato doslej ni doživel nobenih zunanjih političnogeografskih transformacij, temveč zgolj notranjo politično devolucijo in kvečjemu v primeru večje številčne uravnoteženosti med tradicionalno dominantno in manjšinsko skupnostjo preoblikovanje državne organiziranosti iz unitarnega proti federalnemu sistemu.

Vsekakor so zahodnoevropske regionalne manjšine oziroma zahodnoevropski narodi brez države v tem času z izboljšanjem svoje družbenoekonomske strukture in s pridobitvijo večje teritorialne in politične avtonomije pridobile tudi več možnosti za utrjevanje svoje izvorne kulture in jezika (Rokkan & Urwin 1983). Jezik teh manjšin se je standardiziral in pridobil nove družbene funkcije kot jezik lokalnega izobraževanja, jezik lokalnih gospodarskih dejavnosti in jezik lokalnega političnega in upravnega življenja. Ta proces je intenzivnejši v državnih okoljih, v katerih delujejo močne regionalne stranke ali državne stranke z močno regionalno podporo, saj vidi centralna oblast v devoluciji ne le sredstvo za odpravo potencialnih notranjih konfliktov in spodbudo za splošni in bolj uravnotežen družbeni razvoj, temveč tudi sredstvo za pridobivanje večje politične podpore; šibkejši pa je tam, kjer so regionalne manjšine slabše politično organizirane in kjer se zato tako teritorialna avtonomija kot kulturni pluralizem težje uveljavljata. Vsekakor se tudi pri regionalnih manjšinah, tako kot pri nacionalnih, inovacijski procesi in nova multikulturna družbena struktura uveljavljajo najprej v urbanih okoljih in se iz njih širijo na podeželje. Če pa v primeru nacionalnih manjšin, kot je bilo razvidno, širjenje novih jezikovnih praks in multiple identitete pomeni izziv tradicionalni etnično-jezikovni sestavi manjšinskega prostora, predstavlja to v primeru regionalnih manjšin sredstvo obnove njegove tradicionalne etnično-jezikovne podobe, ki je v industrijskem obdobju v dobršni meri zamrla ali se umaknila v njegova skrajna periferna območja.

Pri nacionalnih manjšinah tako prihaja do tendenčnega procesa deteritorializacije, pri regionalnih manjšinah pa do tendenčnega procesa reteritorializacije njihovega tradicionalnega naselitvenega ozemlja. Pri prvih se možnosti teri-



torialne in politične samouprave zmanjšujejo, pri drugih pa se povečujejo in uveljavljajo, običajno tudi v precej večjem in kompaktnem območju. Očitno lahko nova teritorializacija manjšinskih zahtev in pravic privede do novih delitev in potencialnih konfliktov zaradi možnosti razvoja ekskluzivnih nacionalizmov v manjšem (lokalnem ali regionalnem) formatu. Poleg tega je zaradi splošne povečane prostorske mobilnosti prebivalstva in preteklih selitvenih procesov pojem avtohtonega ozemlja v marsikaterem pogledu izgubil svojo nekdanjo dimenzijo in smisel, kar lahko opazimo ne le na primeru Slovencev na Koroškem ali v Beneški Sloveniji (Bufon 1992, Zupančič 1999), temveč tudi v obsežnejših območjih tradicionalne naselitve regionalnih manjšin (Williams 1991). V takih pogojih se na novo zastavlja vprašanje "teritorialnih in neteritorialnih oblik manjšinske avtonomije" (Smith & Cordell 2008). Za teritorialne oblike je značilno, da manjšinske zaščitne norme veljajo znotraj nekega točno določenega ozemlja, v katerem ima manjšinski jezik status enakovrednega uradnega jezika, pripadniki manjšine pa možnost politične samouprave. Model teritorialne avtonomije je smiseln za kompaktne in politično organizirane manjšine, ki na lokalni ravni predstavljajo izrazito večino na območju živečega prebivalstva. V takem primeru postane državna manjšina dominantna skupina na regionalni ravni in mora po istem principu zagotavljati enake pravice tistim osebam, ki so se v novi situaciji znašle v položaju manjšine.

S povečevanjem družbene integracije in multikulturne podobe območij družbenega in kulturnega stika se v zadnjem obdobju krepijo tudi pobude za bolj integrirane politike oziroma za bolj usklajeno sožitje različnih jezikov in kultur v etnično mešanih okoljih. V tem kontekstu velja omeniti tako imenovane Ljubljana Guidelines on Integration of Diverse Societies (OSCE 2012), ki so bili sprejeti leta 2012 v okviru Organizacije za varstvo in sodelovanje v Evropi ter njenega Visokega komisariata za nacionalne manjšine. Ta dokument ugotavlja, da je teritorialna samouprava in devolucija oblasti instrument, ki omogoča reprezentativnost posameznih manjšinskih skupnosti, vsekakor pa morajo institucije samouprave sloneti na demokratičnih principih in procesih ter reflektirati interese vseh skupnosti, ki živijo na določenem ozemlju (Malloy & Palermo 2015). Oblike delitve oblasti zato ne smejo izključevati nobene skupnosti in tem onemogočati reprezentativnosti. Podobno razmišljanje je razvila Svetovalna komisija za Okvirno konvencijo Sveta Evrope za zaščito nacionalnih manjšin, ki zagovarja manj formalni in bolj dinamični pristop pri obravnavi avtohtonih manjšin ter vključevanje v zaščitni diskurz tudi nedržavljanov z drugačnimi jezikovnimi in kulturnimi značilnostmi. Prvi je prav tako potreben zaradi povečevanja deleža oseb z multiplo identiteto, kar izraža vse večjo družbeno integracijo med manjšinsko in večinsko družbo oziroma zmanjševanje družbene distance med njima. Posledično zaščitne norme naj ne bi več zasledovale težnje po družbeni in teritorialni separaciji ter ekskluzivni avtonomiji, ki na nek način reproducira tradicionalni državni nacionalizem na regionalni ravni,

temveč naj bi razvijale politike koeksistence in spoštovanja kulturnih različnosti (Malloy & Palermo 2015). V takšen kontekst družbene integracije, v katerem tradicionalne kategorije teritorialnosti in krvne pripadnosti ne igrajo več tako pomembne vloge, se ob upoštevanju kulturne različnosti naravno umeščajo tudi neavtohtone manjšine, ki postajajo v Evropi s priselitvenimi tokovi vse pomembnejši družbeni akter in nov potencialni dejavnik konfliktov v odnosu tako do večinskega prebivalstva, ki je dominantno na državni ravni, kot do manjšinskega prebivalstva, ki se želi uveljaviti kot dominantno prebivalstvo na lokalni oziroma regionalni ravni. Iz tega lahko izvedemo ugotovitev, da manjšine ne obstajajo kot neka trajna družbena kategorija, temveč obstajajo le večje ali manjše socialne skupine, ki vsaka s svojo različno identiteto enako predstavljajo naravno in kulturno raznolikost človeštva. Določena socialna skupina se spremeni v manjšino, ko se ta postavlja v politično razmerje z drugo in se ta, običajno zaradi kvantitativnih kriterijev in političnega statusa, v odnosu do nje uveljavlja kot večinska oziroma dominantna.

Neteritorialne oblike avtonomije oziroma priznanja manjšinskih pravic bi tako spet lahko postale aktualnejše kot v času, ko sta Karl Renner in Otto Bauer poskusila razrešiti problem narodnostne samoodločbe v zadnjem obdobju habsburškega imperija (Smith & Cordell 2008). Skladno s takim pristopom bi le *demos* ohranil svojo teritorialno organiziranost, *ethnos* pa bi združeval osebe iste kulture in jezika po neteritorialnem ali vsaj ne apriornem teritorialnem ključu in bi bile manjšinske pravice uresničene tam, kjer bi bilo to potrebno oziroma kjer bi obstajal zadosten politični in družbeni potencial manjšinskega prebivalstva. Seveda se tu odpira vprašanje posameznikove pripadnosti in nje-gove etnično-jezikovne izbire, saj na pripadnike manjšinskih skupin nenehno vplivajo eksplicitni ali latentni asimilacijski pritiski, povečujejo pa se tudi, kot je bilo razvidno, oblike multiple, sočasne identitete. Tudi ta oblika manjšinske avtonomije ima torej svoje napake in se zdi še najuporabnejša za pripadnike tiste skupnosti, ki že uživa določeno teritorialno avtonomijo, a živi zunaj tako določenega območja, ali za tiste manjšinske skupnosti, ki niso dovolj kompaktno naseljene na nekem območju, vendar imajo njeni pripadniki zelo profilirano ločeno identiteto ter močno in enotno družbenopolitično organiziranost.

Številni raziskovalci (cf. Kymlicka 1995, Lijphart 1995) zagovarjajo bolj integrirano uporabo tako teritorialnih kot neteritorialnih oblik manjšinske avtonomije oziroma kombinacijo *top-down* in *bottom-up* pristopov. Prvi lahko objektivno in teritorialno določijo instrumente za varovanje manjšinskih jezikov in kultur ter zagotavljajo njihov enakopravni status z večinskim jezikom in kulturo, drugi pa omogočijo posameznikom, da se uveljavijo kot nosilci oziroma uporabniki teh instrumentov, a se hkrati lahko brez omejitev, v pasivni ali aktivni obliki, vključujejo tako v večinsko kot v manjšinsko ali v manjšinska kulturna ali jezikovna okolja. Takemu razmišljanju bi lahko dodali še potrebo po stalnem monitoriranju zaščitnih instrumentov in njihove uspešnosti, kar je skladno

s sodobnimi koncepti družbenega načrtovanja in vključevanja uporabnikov razvojnih politik v sam proces načrtovanja in odločanja. Ne nazadnje bi lahko tak pristop ustrezal tako regionalnim kot nacionalnim manjšinam: prvim teritorialno avtonomijo omogočajo procesi politične devolucije na državni ravni, drugim pa sprejeti dogovori na mednarodni ravni, čeprav so procesi in problemi na področju etnično-jezikovne identitete, jezikovne prakse in interetničnih odnosov, pa tudi odnosov med centralno oblastjo in lokalno stvarnostjo, pri regionalnih in nacionalnih manjšinah zelo podobni ter zahtevajo neko celovitejšo in širše, s tem pa tudi bolj evropsko profilirano večnivojsko upravljanje.

### 3. Sklep: od teritorialnosti izključevanja do teritorialnosti povezovanja

Etnično prebujanje različnih evropskih manjšin ne poteka vedno vzporedno z jezikovnim preporodom manjšinskih jezikov, kot lahko to na primer ugotovimo (v večji meri) pri keltskih skupnostih na Irskem in v Veliki Britaniji (cf. Williams 2013) ali (v manjši meri) med Beneškimi Slovenci v Italiji (Bufon 2003). To pomeni, da objektivna izvorna etnična identiteta, kolikor je je v sodobnih razmerah sploh še mogoče ugotoviti, ne sovпада nujno s subjektivno identiteto, ki je ne le spremenljiva, temveč največkrat tudi večplastna. Institucionalizacija manjšinskih pravic seveda lahko veliko prispeva k večji teritorializaciji manjšinskih skupnosti, saj se večinoma naslanja na historično manjšinsko naselitveno ozemlje ter navsezadnje tudi na večje prekrivanje med objektivno in subjektivno pripadnostjo tam živečega prebivalstva, ki mu zakonodaja prav zaradi bivanja v institucionalno določenem manjšinskem ozemlju priznava določene kolektivne pravice. Po drugi strani pa tovrstni pristop kritizirajo tako državljanski modernisti, ki vidijo v oblikovanju institucionalnih manjšinskih okolij nevarnost prevlade *ethnosa* nad *demosom* oziroma nadaljnje balkanizacije evropskega političnega prostora in v uveljavljanju kolektivnih pravic v posameznih delih državnega ozemlja nevarnost razkroja državljanske enakosti, ki je od francoske revolucije dalje ključni element sodobne unitarne države, kot tudi manjšinski modernisti, ki opozarjajo na dejstvo, da se zaradi povečane družbene in prostorske mobilnosti historična manjšinska naselitvena ozemlja vse manj prekrivajo z območji, kjer dejansko živijo potencialni pripadniki manjšinskih skupnosti, ti pa so tudi veliko bolj integrirani v širše družbeno okolje, zaradi česar lahko klasične oblike manjšinskega institucionalnega in teritorialnega varstva z oblikovanjem nekakšnih novodobnih indijanskih rezervatov predstavljajo bolj nevarnost nadaljnje folklorizacije in marginalizacije teh skupnosti kot pa priložnost za njihovo družbeno uveljavljanje (Bufon 2010b, 2014b).

Namesto ločenega družbenega in teritorialnega pristopa mnogi proučevalci manjšinskih revitalizacijskih politik zagovarjajo integralni pristop, ki spodbuja splošne razvojne možnosti na ekonomskem, socialnem, izobraževalnem in

kulturnem področju ter s tem implicitno omogoča tudi razvoj medkulturnega dialoga, etnične koeksistence in večjezične prakse v evropskih kontaktnih območjih. Sodobni revitalizacijski programi manjšinskih kultur so velikokrat hkrati revitalizacijski programi za periferna ali marginalizirana okolja, v okviru katerih se te kulture nahajajo, kar pomeni, da se lahko družbenokulturne razmere v manjšinskih oziroma etnično mešanih okoljih izboljšujejo le sočasno z družbenoekonomskimi in družbenopolitičnimi razmerami, kot so dokazali primeri dobrih praks v Kataloniji ali Walesu (Williams 2013). Tem splošnim razvojnim možnostim regionalnih manjšin se v primeru nacionalnih obmejnih manjšin pridružujejo še dodatne funkcije integratorjev sosednjih funkcionalnih in kulturnih prostorov, kar pomeni, da velja pri razvijanju politik čezmejnega sodelovanja in povezovanja nujno upoštevati tudi razvojne potenciale, ki jih obmejnimi in etnično mešanim območjem vnašajo manjšine in multikulturne lokalne skupnosti (Bufon 2014a). Iz zapisanega nadalje izhaja, da so tradicionalne *top-down* razvojne politike, pa naj te izvirajo iz državnih ali evropskih centrov oblasti, vse manj uspešne in ustrezne pri celovitem razreševanju in usmerjanju tako kompleksnih družbenih stvarnosti (Toggenburg 2004).

To ne pomeni, da teritorialna dimenzija izgublja pomen, saj se zdi regionalna (tudi v čezmejnem smislu) raven za razreševanje sodobnih razmerij med centrifugalnimi in centripetalnimi družbenimi težnjami oziroma za upravljanje sočasno potekajočih procesov družbene in prostorske konvergence in divergence, še posebej z rekonstrukcijo tradicionalnih multikulturnih območij, v resnici vse bolj pomembna in odločilna (Bufon 2006). Spreminjata pa se vrednotenje prostora in dojemanje njegovih družbenih in kulturnih lastnosti: to ne morejo biti več le območja ločevanja, temveč postajajo vse bolj območja povezovanja. Poleg tega za razliko od preteklosti v sodobni, vse bolj soodvisni in globalizirani družbi ni več nobena teritorialna enota, tudi na državni ravni, povsem samozadostna in suverena. Prav zato se zdi, da morajo biti tudi manjšinske politike, tako kot druge ali morda še bolj kot druge razvojne politike, ustrezno podprte z usklajenimi meddržavnimi razvojnimi politikami, posebej v primeru nacionalnih manjšin, a tudi z usklajenimi politikami na ravni center – periferija, sploh v primeru regionalnih manjšin. Manjšine niso oziroma ne bi več smele biti le objekt političnega delovanja in teritorialnega obvladovanja, kakršnega izvajajo dominantne sile, temveč bi morale postati ob evropskih institucijah, državah in lokalnih (regionalnih) upravah novi priznani subjekt tako imenovane večnivojske evropske politike, ki ne stremi le k zaščiti ali vzpostavljanju nekega stanja, temveč tudi k sprožanju nekega razvojnega in družbenega procesa (Malloy 2008). Integrirane politike družbenega razvoja v situacijah kulturnega stika bi na ta način lahko prispevale k temu, da postaneta tako *demos* kot *ethnos* neki odprti, bolj fleksibilni in neizključevalni družbeni kategoriji, modernistični ekskluzivni, z mejo ali celo mejno pregrado zavarovani teritoriji pa (ponovno) okolja družbenega in kulturnega prepletanja ter koeksistence med večinskimi

in manjšinskimi, a tudi med avtohtonimi in neavtohtonimi skupnostmi; ne več bojna polja družbenopolitične in družbenokulturne prevlade ali nadvlade, temveč prostor enakopravne družbene (re)integracije. Verjetno ni naključje, da se prav temu razvojnemu trendu in poskusom konkretnije implementacije evropske paradigme združenosti v različnosti vse glasneje zoperstavljajo evropski neonacionalistični populist.

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Simona Kuti

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## Transnationalism and Multiculturalism: An Intellectual Cul-de-sac or Paths for Further Research?

Considering the assumption of the continuing importance of both transnationalism and multiculturalism, the aim is to discuss the two notions and explore their relations within the broader field of migration studies. Even though both concepts present popular keywords in academic literature, they are rarely assessed and researched together. Therefore the article sketches out possible paths for further research, involving intersections between transnationalism and multiculturalism. The first two parts of the paper discuss migrant transnationalism and multiculturalism, including their definitions, different approaches and criticisms. After comparing the two concepts and discussing their similarities and differences, possible paths for further research on multiculturalism and transnationalism are outlined, based on a differentiation between the two notions at a theoretical, public policy and social practice level. Transnationalism and multiculturalism do not lead to an intellectual cul-de-sac, but offer many potentially rewarding paths for further research.

**Keywords:** transnationalism, multiculturalism, migration, migrant integration, migration studies.

## Transnacionalizem in multikulturalizem: intelektualna slepa ulica ali poti nadaljnjega raziskovanja?

*Glede na stalni pomen obeh pojmov, tako transnacionalizma kot multikulturalizma, ju v članku obravnavamo v povezavi z migracijskimi študijami. Članek oriše možne poti za nadaljnje raziskovanje, kakor tudi presečišče obeh pojmov. V prvih dveh delih obravnava transnacionalizem in multikulturalizem migrantov, skupaj z definicijami, različnimi pristopi in kritiko obeh pojmov. Po primerjavi obeh konceptov, skupaj z njunimi podobnostmi in razlikami, so podane možnosti nadaljnjega raziskovanja multikulturalizma in transnacionalizma, ki temeljijo na razlikovanju med njima na ravni teorije, javne politike in socialne prakse. Transnacionalizem in multikulturalizem ne vodita v intelektualno slepo ulico, ampak ponujata številne obetavne poti nadaljnjega raziskovanja.*

**Ključne besede:** transnacionalizem, multikulturalizem, migracije, integracija migrantov, migracijske studije.

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## 1. Introduction

The turn of the 21<sup>st</sup> century has been marked by the transnational turn in the social sciences and the humanities. Starting within social anthropology, the “transnational paradigm shift” (Vertovec 2009) quickly spread across different disciplines studying migration. By the end of the 1990s it was possible to conclude that “transnationalism” seems to be omnipresent, particularly when it comes to social sciences (Vertovec 2003), and that there “has been a deluge of sociological studies on immigrant transnationalism” (Morawska 2003, 619).

Approximately at the same time that transnationalism started to make its way into (and beyond) the migration studies mainstream, the backlash and a retreat from multiculturalism began (Kymlicka 2010). Multiculturalism has been declared dead several times at the beginning of the 21<sup>st</sup> century, and at the same time transnationalism seemed to have peaked in its popularity. Even though politicians have been the most vocal messengers of the death of multiculturalism, social scientists are debating whether “post-multiculturalism” accurately characterises a new era (Kymlicka 2010), and whether it represents a continuation of multiculturalism or a break from it (Gozdecka et al. 2014). Nevertheless, multiculturalism still exists in academic and public debates, and in the worst case presents a zombie concept – “dead long ago but still haunting people’s minds” (Beck 2000, 80). A number of recent studies (Colombo 2015, Pakulski 2014, Winter 2015) indicate a possible revival of multiculturalism, and a realisation of Kivisto and Faist’s (2010, 166) supposition “that its significance might increase in the future”.

Considering the assumption of the continuing importance of both transnationalism and multiculturalism as social-scientific concepts relevant to the study of human migration, the aim of this article is to discuss the two notions and examine their intersections within the broader field of migration studies. Even though both concepts present popular keywords in academic literature, they are rarely assessed and researched together.

In an attempt to ascertain whether the two concepts lead to an intellectual cul-de-sac, or offer some potentially rewarding paths for further research, the article is structured as follows: the first two parts discuss migrant transnationalism and multiculturalism, including their definitions, different approaches and criticisms. Considering the spatial limitations of the article, this part is necessarily selective, but nevertheless aims to present a brief overview of the main conceptual developments and debates. The next part of the article singles out similarities and differences between the two concepts, and sketches out possible paths for further research on transnationalism and multiculturalism (at the state policy, social practice and theoretical construct levels, cf. Kivisto & Faist 2010). The final part lays out the main conclusions, together with the potential epistemological benefits of bringing two scholarships closer together. Even though the author’s

disciplinary background is within sociology, this article aims to provide some inputs for a wider interdisciplinary field of migration studies, which deals with different aspects of complex migration and post-migration phenomena.

## 2. Migrant Transnationalism

Researching social processes and formations that reach across the borders of nation states represents a growing and popular field within migration studies. Nevertheless, transnationalism has been somewhat contested as a term and scientific concept. Three social anthropologists, Nina Glick Schiller, Linda Basch and Christina Blanc-Szanton, organised a workshop in 1990 in order to “conceptualize and analyze transnational migration” (Glick Schiller et al. 1992, ix). They set the goal of developing transnationalism as “a new analytic framework for understanding migration” and defined it

as the processes by which immigrants build social fields that link together their country of origin and their country of settlement. Immigrants who build such fields are designated ‘transmigrants’. Transmigrants develop and maintain multiple relations – familial, economic, social, organizational, religious, and political – that span borders. Transmigrants take actions, make decisions, and feel concerns, and develop identities within social networks that connect them to two or more societies simultaneously (Glick Schiller et al. 1992, 1–2).

Transnationalism challenges the classical view on international (im)migration as a unilinear move from the country of origin to the country of reception, and the accompanying assumption that (im)migrants sever all social ties with individuals, groups and organisations in the country of origin. In this view, migrants were supposed to gradually assimilate into the society of reception, preferably cutting off their emotional attachments to the country of origin as well. Unlike the “unilinear assimilationist paradigm of classical migration research” (Levitt & Glick Schiller 2004, 1005), transnational framework does not predefine migrants as permanent. Since migration is not seen as a one-way process, migrants’ frequent mobility and other ways of sustaining relations with people and organisations in the country of origin also have an important role in conceptualising transnationalism.

Even though transnationalism first appeared within migration studies in the 1990s, transnational was used in the late 1950s within the field of international law and international relations, and particularly in the 1960s within the field of economics, referring to the activities of global corporations. The invention of the term is usually attributed to Randolph S. Bourne who wrote the essay “Trans-national America” in 1916 (Bourne 2006), and used the adjective in a manner that corresponded more to multiculturalism (Waldinger 2013) than to contemporary transnationalism.

This pioneering definition of transnationalism quickly attracted scholarly attention, including criticisms. For instance, Sarah J. Mahler (1998) criticised it for providing

ample space for any number of individual and group activities that span borders to be construed as transnational – from visitation to sending remittances, to making telephone calls. / ... / [T]he definition offers little assistance for evaluating the content, intensity and importance of transnational ties, for examining the interests served through these ties and, perhaps most fundamentally, for establishing a typology of transnational actors – individuals, families, households, hometown associations, governments etc. (Mahler 1998, 74).

Some critics also emphasised the terminological inadequacy of transnationalism, e.g. its incompatibility with nationalism as a political doctrine, social and political movement and a collective sentiment (Božić 2004), and suggested *transstate* as a more suitable term for describing dense connections across state borders (Faist 2008, Waldinger & Fitzgerald 2004). Others questioned transnationalism's novelty and criticised the concept's tempocentrism and technological determinism (Foner 1997, Waldinger & Fitzgerald 2004).

Nevertheless, scholarship on transnationalism proliferated rapidly, together with its derivatives – *transmigration*, *transmigrants*, *transnation*, *transnationals* etc. By the end of the 1990s Stephen Vertovec (1999, 449–456, cf. Božić 2004, 189–190) identified six distinct meanings of transnationalism, not limited to migration studies:

1. social morphology (diasporas, transnational networks, transnational public spheres, transnational communities);
2. type of consciousness (dual or multiple identifications, awareness of multi-locality, transformations of identity);
3. mode of cultural reproduction (syncretism, creolization, cultural translation, hybridity, new ethnicities, transnational consumption);
4. avenue of capital (transnational corporations, transnational transactions, transnational entrepreneurship);
5. site of political engagement (INGOs, transnational social movement organizations, transnational political activities of diasporas);
6. (re)construction of 'place' or locality (translocalities, virtual neighbourhoods) (Vertovec 1999, 449–456).

The uncritical terminological and conceptual proliferation of transnationalism has been reflected in ways of conducting research and many researchers "have emphasized different aspects of transnational experiences, have conducted their studies at different levels of analysis, and have used a variety of theoretical and methodological approaches" (Itzigsohn 2000, 1128). Authors have developed different types and analytic categories of transnationalism, depending on the

scope, content, geographic orientation, frequency and intensity of transnational activities. Alternative metaphors such as transnational social fields (Levitt & Glick Schiller 2004), transnational social spheres (Gupta & Ferguson 1992) and transnational social spaces (Faist 2000, Pries 2001) also proliferated, and in some cases conceptually developed separately from transnationalism (Kuti & Božić 2016).

In an effort to elaborate and validate transnationalism as a research field, Alejandro Portes and associates (1999, 219) proposed “delimit[ing] the concept of transnationalism to occupations and activities that require regular and sustained social contacts over time across national borders for their implementation”. Such a definition excludes occasional and irregular transnational activities, such as sporadic gifts to family members left behind, or one time real-estate purchases in the home country (Portes et al. 1999). Besides introducing stricter requirements for including a cross-border activity into transnationalism, Portes and associates (1999, 220) “define the individual and his/her support networks as the proper unit of analysis”, focusing the phenomenon of transnationalism on grassroots initiatives of ordinary migrants.<sup>1</sup> In addition, Portes (2001, Portes et al. 2007) distinguishes immigrant transnationalism from other grassroots activists from the civil society who engage in regular and sustained cross-border activities.

In order to further delimit the realm of transnational and justify a distinct research area, Portes (2001, 2003) developed a typology of cross-border activities. He differentiates international, multinational and transnational activities in political, economic and socio-cultural spheres. International activities are “conducted by states and other nationally-based institutions in other countries” (Portes 2001, 186), multinational activities are “conducted by institutions whose purposes and interests transcend the borders of a single nation-state” (Portes 2001, 186), while transnational activities are “initiated and sustained by non-institutional actors / ... / undertaken on their own behalf, rather than on behalf of the state or other corporate bodies” (Portes 2001, 186). Research on migrant transnationalism should concentrate on *grassroots enterprises*, but interactions with other levels of analysis (e.g. international policies or multinational actors) are also recognised as fruitful avenues for research (cf. Portes et al. 2007).

Even though stressing a lack of consensus and conceptual precision about transnationalism has become somewhat axiomatic (Al-Ali & Koser 2002), Alejandro Portes (2003, cf. Kuti 2014) has singled out several theoretical convergencies on migrant transnationalism. According to Portes (2003, 874), researchers in this field have reached a certain level of consensus on the point that “transnationalism represents a novel perspective, not a novel phenomenon”. There are many examples of transnational activities among immigrants in the past, but nevertheless “new technologies in transportation and telecommunications / ... / greatly facilitate[d] rapid communication across national borders and long distances” (Portes 2003, 875). Such developments contributed to the discovery

of transnationalism as a new perspective on phenomena that existed in the past, but were not recognised as worthy of scholarly attention (Portes 2003).

Second, “transnationalism is a grassroots phenomenon” (Portes 2003, 875). Despite the attempts to include governments and corporations as transnational actors “from above” (cf. Guarnizo & Smith 1998), the majority of the literature on (migrant) transnationalism deals with initiatives of ordinary people to establish and maintain lasting economic, political and cultural ties across national borders (Portes 2003, 875). Another strand of research within the framework of transnationalism has focused on the cross-border activities of “nongovernmental associations and activists for human rights, the environment and other global causes” (Portes 2003, 876).

Third, “not all immigrants are transnationals” or transmigrants (Portes 2003, 876). Scholarly enthusiasm around a novel perspective and a novel field of study has led to exaggeration of the scope of actual transnational practices among migrants. Additionally, qualitative case studies used in pioneering anthropological studies usually sampled on the dependent variable (that is, transnationalism). This methodological issue has been identified as “responsible for obscuring the absence of transnationalism in the everyday lives of many migrants” (Portes 2003, 876) and the perception among scholars that all immigrants are transmigrants. Subsequent quantitative studies confirmed the existence of transnational practices among different groups of migrants in different settings, but in many cases only a minority of migrants regularly engaged in transnational practices (Guarnizo et al. 2003, Portes et al. 2002).

Fourth, “immigrant transnationalism has macro-social consequences” (Portes 2003, 877). According to Portes (2003):

While from an individual perspective the act of sending a remittance, buying a house in the migrant’s hometown, or traveling there from time to time have purely personal consequences, in the aggregate they can modify the fortunes and the cultures of these towns and even of the countries of which they are part (Portes 2003, 877–878).

Migrant economic remittances, both regular and occasional, can turn into a significant source of foreign exchange and investments for home communities<sup>2</sup> (Portes 2003), while social remittances as “local-level forms of cultural diffusion” (Levitt 1998, 926) can give rise to significant socio-cultural and political consequences.

Finally, scholars in the field of (migrant) transnationalism agree that “the extent and forms of transnational activism vary with contexts of exit and reception” (Portes 2003, 879). In the USA, various migrant groups differently engage in transnational activities depending on their urban/rural origin and whether their home country is in a violent conflict, or in a peaceful situation (Portes 2003). The context of reception (e.g. the level of discrimination in a host

society, geographic concentration or dispersal of a migrant group) also affects the intensity and type of transnational engagement (Portes 2003). In addition, transnational activities can vary depending on “geographical proximity of sending and receiving contexts, histories of interdependence between nation-states and localities, patterns of migration and processes of settlement” (Vertovec 2009, 18–19), and change during time.

Even though the number of studies on migrant transnationalism may have stagnated in comparison to the first decade of the 21<sup>st</sup> century, it still presents a popular research theme and assumes a significant place in contemporary migration studies (cf. Dahinden 2017).

### 3. Multiculturalism

Unlike transnationalism, multiculturalism has been declared dead by several politicians and some scholars. Others, in contrast, emphasise a substantial growth of multicultural policies (Modood 2013, Banting & Kymlicka 2013), and predict an increase in multiculturalism’s conceptual significance in the future (Kivisto & Faist 2010, Žagar 2008). The latter possibility can be illustrated by a number of recent scholarly articles and debates (re)problematizing different aspects of multiculturalism (e.g. Antonsich 2016, Colombo 2015, Gregurović 2016, Pakulski 2014, Winter 2015). Just like transnationalism, multiculturalism has been a contested term, but its contestation, in contrast, has reached beyond academic debates, becoming part of the public discourse. It is therefore not surprising that (English) online dictionaries often include the term multiculturalism, while seldom produce any results for the term transnationalism. Multiculturalism is thus defined as “the presence of, or support for the presence of, several distinct cultural or ethnic groups within a society” (Oxford Dictionaries), or “the belief that different cultures within a society should all be given importance” (Cambridge Dictionary). Collins Dictionary in contrast distinguishes two meanings: “1) the state or condition of being multicultural, 2) the policy of maintaining a diversity of ethnic cultures within a community” (Collins Dictionary). The second meaning is closer to definitions of multiculturalism in professional or discipline-specific dictionaries, which are significantly broader and include the history of multiculturalism, its geographical context, philosophy, criticisms and even assessments of its political and conceptual future (e.g. Abercrombie et al. 2006, Turner 2006).<sup>3</sup>

Although it originated in Canada in the early 1970s as a public policy to promote and maintain diversity of cultures, various theoretical approaches to multiculturalism have developed within the social sciences and the humanities. Similar to transnationalism, multiculturalism has become a popular field of study resulting in many types and categories in scholarly literature, not limited to migration and ethnic studies. It also reached a variety of public domains,

including medicine, psychotherapy, marketing, criminal law and public relations (Vertovec 2010).

In an attempt to map different theoretical approaches to multiculturalism in sociological terms, Douglas Hartmann and Joseph Gerteis (2005) distinguish three ideal types of multiculturalism in social theory. Instead of unidimensional approaches to diversity (i.e. assimilationism vs. multiculturalism), the authors differentiate two dimensions: cultural (basis of cohesion) and relational (basis of association). Cultural bases for cohesion can be either substantive moral bonds and practices, or procedural norms and laws, while societal basis for association can be either in individual interactions or via groups (Hartman & Gerteis 2005, 222–223). Introducing a two-dimensional framework enables Hartman and Gerteis (2005, 219) to distinguish “four distinct visions of difference” in social theory, three of which present types of multiculturalism: cosmopolitanism, interactive pluralism and fragmented pluralism. Although they emphasised that different versions present ideal types and not specific theories, Hartman and Gerteis (2005) illustrated particular types with different authors. Their typology was complemented by Peter Kivisto and Thomas Faist (2010) who included examples of corresponding state policies, along with additional illustrations from the scholarly literature. A combination of two interpretations of approaches to multiculturalism and assimilationism is shown in the Table 1.

**Table 1: Different Perspectives on Multiculturalism**

		Basis of cohesion (cultural dimension)	
Basis for association (relational dimension)		Substantive moral bonds	Procedural norms
	Individual in society	Assimilationism (e.g. Schlesinger, Brubaker, Joppke; France as exemplar)	Cosmopolitanism (e.g. Hollinger; USA or Britain as exemplars)
	Mediating groups	Interactive Pluralism (e.g. Alexander, Taylor + Kymlicka, Parekh; Canada and Australia as exemplars)	Fragmented Pluralism (e.g. Portes & Rumbaut; Young; no existing society fits this model)

Sources: Adapted from Hartmann & Gerteis (2005) and Kivisto & Faist (2010).

The authors’ interpretations differ most when it comes to “segmented assimilation” (Portes & Rumbaut 2001, Portes & Zhou 1993) as illustrative of fragmented pluralism. Hartmann and Gerteis (2005, 229) describe this orientation as characterised by “the existence of a variety of distinctive and relatively self-contained mediating communities” between the individual and the nation. Although Hartmann and Gerteis (2005) also mention Iris Marion Young’s work as an example of fragmented pluralism in theory, Kivisto and Faist (2010) emphasise their misinterpretation of segmented assimilation in this context. Namely, “[Hartmann and Gerteis] depict segmented assimilation as amounting to entry into distinctive sectors of society that both in terms of related patterns of cultural values and social interaction function in isolation from other sectors”



(Kivisto & Faist 2010, 189–190). According to Kivisto and Faist (2010), none of the world's liberal democracies matches this model, and under the assumption that "multiculturalism is a product of elite decision making /.../ it is inconceivable that any [political and/or cultural] elites would actively endorse or promote such societal balkanization" (Kivisto & Faist 2010, 190). Therefore, Kivisto and Faist (2010) consider cosmopolitanism and interactive pluralism as the only viable forms of multiculturalism.

Other typologies most often include two or three types of multiculturalism, and vary according to assigned labels, classification criteria, level of sophistication and/or elaboration, disciplinary approach etc. (cf. Mesić 2006). Barret (2013), for example, differentiates symbolic, structural and dialogical multiculturalism. Symbolic multiculturalism emphasises the preservation of cultural differences reduced to "symbolic markers of ethnic groups such as clothing, food and music" (Barret 2013, 4). Structural multiculturalism aims to alleviate more substantial societal inequalities resulting from the political, economic and social disadvantages of minority groups (Barret 2013). Dialogical multiculturalism, represented by Bhikhu Parekh (2000), emphasises institutionalised dialogue between (non-homogeneous) cultures and "represents a normative stance on how multiculturalism should be implemented rather than a description of an actual system of policies" (Barret 2013, 5).<sup>4</sup>

When it comes to institutionalisation and practice of multiculturalism in different countries, Michel Wievorka (1998) differentiates its integrated and disintegrated variants. (Relatively) integrated multiculturalism is the type of multiculturalism in Canada, and particularly in Sweden and Australia, which does not include a strict separation between the cultural (politics of recognition) and the economic dimension (politics of redistribution, Wievorka 1998). Disintegrated multiculturalism, on the other hand, is illustrated by the case of the USA where demands for social equality (affirmative action) and demands for cultural recognition have been formulated by different actors in different historical moments. Wievorka (1998) concludes that "in so far as multiculturalism is not expected to distinguish between dealing with social inequalities and lack of respect for and recognition of cultures, the theoretical unity of multiculturalism is not conveyed here by a unity of practice" (Wievorka 1998, 889).

Will Kymlicka (2010) distinguishes three patterns of multiculturalism targeting different minority groups: indigenous peoples, historic national minorities and immigrant groups. In line with this division and concerning the level of concrete policies, Banting and Kymlicka (2006, 2013) have developed the Multiculturalism Policy Index (MCPI) seeking to capture the multiculturalist turn. MCPI includes nine policy indicators for indigenous peoples, six for national minorities and eight policies concerning immigrant groups. Since post-immigration multiculturalism (Modood 2013) is of particular importance in the context of migration studies and transnationalism, eight policies concerning

immigrants are listed here:

1. constitutional, legislative or parliamentary affirmation of multiculturalism, at the central and/or regional and municipal levels;
2. the adoption of multiculturalism in the school curriculum;
3. the inclusion of ethnic representation/sensitivity in the mandate of public media or media licensing;
4. exemptions from dress codes, either by statute or by court cases;
5. allowing of dual citizenship;
6. the funding of ethnic group organizations to support cultural activities;
7. the funding of bilingual education or mother-tongue instruction;
8. affirmative action for disadvantaged immigrant groups (Banting & Kymlicka 2013).

Given that the beginning of the 21<sup>st</sup> century has been marked by the (alleged) retreat from multiculturalism, its demise, failure, a backlash against it and even proclaimed death (Colombo 2015, Vertovec & Wessendorf 2010), Banting and Kymlicka (2013) demonstrate that the retreat is more evident at a discursive than at a multicultural policy level. MPCII shows the “stability and expansion of multicultural policies in the first decade of the twenty-first century” in Europe (Banting & Kymlicka 2013, 579). One of the exceptions is the Netherlands, where the MPCII score significantly dropped in 2010 in comparison to 2000, while e.g. Belgium, Finland, Greece, Ireland, Norway, Portugal, Spain and Sweden recorded stronger multicultural policies (Banting & Kymlicka 2013).<sup>5</sup> Authors also note a “proliferation of ‘civic integration’ policies” (Banting & Kymlicka 2013, 586) which are not incompatible with multicultural policies and often develop around existing programmes.

In an attempt to mark a beginning of a new era in debates over immigrant and ethnic integration, some authors use the term post-multiculturalism. According to Wong (2015, 69), “[a] central aspect of ‘post-multiculturalism’ discourse is based on the perception and claim that multiculturalism is not working, / ... / and is segregating / ... / diverse ‘racial’, ethnic, and religious groups”, while for Vertovec (2010, 91) post-multiculturalist policies and discourse combine “a strong common identity and values / ... / with the recognition of cultural differences”. Nevertheless, some authors state that it is unclear whether the term post-multiculturalism denotes a continuation or a retreat from its predecessor (Gozdecka et al. 2014), and criticise the post-multiculturalist critique for simplifying multiculturalism (Kymlicka 2010). Putting these issues aside, it is evident that multiculturalism is still present in scholarly and public debates surrounding immigration, even though it has multiple meanings and types. Therefore it is justifiable to inquire its relations to transnationalism, another popular concept within migration studies.

## 4. Similarities and Differences between Transnationalism and Multiculturalism: Sketching Some Paths for Further Research

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In order to sketch possible paths for further research on transnationalism and multiculturalism within migration studies, it seems useful to single out similarities and differences between the two notions at a general level.<sup>6</sup> First of all, both concepts are quite popular catchphrases and keywords in scholarly discourse, not limited to migration studies. For instance, the EBSCOhost SocINDEX database offers 8,786 texts for the search on multiculturalism and 3,518 for transnationalism. Adjective forms result in even more hits (19,053 for multicultural and 14,601 for transnational) in the research database.<sup>7</sup>

In part as a result of this popularity, both transnationalism and multiculturalism have many meanings, various definitions and approaches. For example, Ley (2010, 190) has characterised this variety as the “semantic breadth of multiculturalism” while Pakulski (2014, 25) notes its “proliferation of meanings”, “semantic evolution” and “conceptual stretch”, even if limited to the case of a single country. Similar characterisations and descriptions have also become almost commonplace for transnationalism (cf. Vertovec 1999, 2009).<sup>8</sup>

In relation to the previous point, migrant transnationalism and post-immigration multiculturalism represent merely one of several types. Transnationalism and multiculturalism are both wider in scope, conceptually and empirically, and are not limited to (post)migration variants, which are the focus of this paper. Furthermore, both notions are characterised by a lack of theoretical clarity, and have been contested and criticised for their vagueness, polysemy, lack of conceptual precision etc. Consequently, both are misunderstood in many ways and instances, albeit with different social consequences. Multiculturalism as a public policy and its subsequent transfer and appropriation to public discourse has had different social consequences to scholarly debates on migrant transnationalism. In addition, transnationalism and multiculturalism are both sometimes (mis) understood as antithetical, or at least incompatible, to migrant integration. Nevertheless, both are sometimes analysed and compared as different modes of integration (e.g. Faist 2000).

Two concepts also diverge in several points. For instance, transnationalism and multiculturalism imply different geographical scopes. Multiculturalism is usually conceptualised and researched within nation-state containers as a public policy, while transnational processes presuppose transcending national borders and the creation of transnational social spaces, including actors in various locations in at least two nation-states. In relation to the previous point, multiculturalism and transnationalism involve different actors and different directions of social actions. Studies of migrant transnationalism most often concentrate on

the grassroots initiatives of ordinary people, while multiculturalism, as a state policy and a political programme, is implemented top-down. Research on transnationalism and multiculturalism most often involves different levels of analysis as well. Studies of migrant transnationalism are usually conducted at micro- and meso-levels of analysis, while studies of multiculturalism usually include macro-level comparisons between different nation states (e.g. Koopmans 2010, 2013), or the development or effects of relevant policies within a single nation state (e.g. Tavan 2012, Vasta 2007).

Finally, in comparison to multiculturalism, the normative or policy dimension of transnationalism is less developed, even though transnationalism is gaining its policy momentum within the so called migration and development nexus. Nevertheless, transnationalism is still largely studied as a social practice and a process, and not as a programme or a policy.<sup>9</sup>

Despite their general differences, it is possible to sketch several paths for further research on multiculturalism and transnationalism within migration studies. As a starting point, three meanings of multiculturalism (as a state policy, social practice and a theoretical construct, Kvisto & Faist 2010, 165) are converted into levels in order to accommodate intersections between multiculturalism and transnationalism, and to discuss possible paths for further research. This division is heuristic and analytical in many ways, and possible research themes presented here are certainly not exhaustive, and are subject to (re)interpretation. Even though migration studies is an interdisciplinary field drawing from several disciplines, the possible research relations between multiculturalism and transnationalism are discussed primarily from a sociological perspective.

At a theoretical construct level, it is possible to synthesise different approaches and conceptualisations of transnationalism and multiculturalism, and relate them to broader theoretical perspectives within the social sciences or migration studies. There are many theoretical works which attempt to recapitulate different approaches to either of the two notions, and this paper is a modest attempt to build on existing scholarship and add a comparative perspective. Another possible path is to examine the application of transnationalism and multiculturalism, e.g. Gerring's (1999) analytical framework for understanding concept formation (cf. Božić 2004) in a selected case. From the sociology of scientific knowledge perspective, it is also possible to track the development and institutionalisation of transnationalism and multiculturalism in research projects, university curricula, PhD programmes and specialised research and education institutions, from a selected national or cross-national perspective (across time and space). It is also possible to compare a number of books and scholarly articles in leading journals for a selected time frame, and relate them to various contextual factors, locally, nationally and/or internationally. In addition, it might be possible to track a differential development of the two notions in relation to relevant public policies, locally, nationally or supranationally.

When it comes to the state (or local) policy level, it is possible to analyse and evaluate different policy documents, and compare definitions and the policy operationalisation of multiculturalism and transnationalism into specific measures. In order to relate and put in perspective the existence and expansion (or retraction) of different policies, it may be feasible to develop indicators for public policies pertaining to transnational (e.g. diaspora) links and compare the results for selected countries with the MCPI (Banting & Kymlicka 2013) or other existing indices. It may be possible to track the development of particular policies and relate them to wider concepts such as immigrant integration, social cohesion, development etc., also frequently used in relevant public policy documents. Such an analysis could include selected countries of immigration and emigration, supranational regulations and intergovernmental or international organisations, depending on a particular case. Below the national level, relevant public policies could be explored at local or regional levels. In order to maintain a critical perspective, public policy analysis should also emphasise an evaluation aspect, determining outcomes and the functionality of policy measures.

Finally, the social practices level appears to be the richest for further research on intersections between multiculturalism and transnationalism. Colombo (2015, 815) has already noted the increasing scholarly interest in studying “everyday multiculturalism” – “the daily negotiation of cultural difference in urban contexts”. Combination with the study of migrants’ transnational practices could lead to ascertaining the effects of the context of reception on the intensity and type of migrants’ transnational engagement (cf. Portes 2003, Portes et al. 1999) in their everyday life. Such a study might determine the relative importance of migrants’ local and (transnational) pluri-local social interactions, and explore the level of simultaneity (Levitt & Glick Schiller 2004) in their daily practices, in a particular (trans)national or local context.

Multiculturalism can also be conceived as a backdrop for migrant transnational practices in settings characterised by different policies dealing with diversity (Žagar 2007, 2008), thus combining phenomenal and policy levels. Such an endeavour might include a cross-national comparative analysis of one migrant group in several immigration countries. A more complex analysis could deal with possible intersections of different types of transnational practices with different types of multiculturalism (e.g. Hartman & Gerteis 2005). Such an effort would presuppose a multi-sited comparative research project, including the main exemplar countries (Kivisto & Faist 2010), and one or several migrant groups.

Finally, existing studies suggest that transnationalism is not incompatible with integration (Hammond 2013, Lacroix 2013). Since multiculturalism pertains to a particular form of integration, future studies might deal with multiculturalism and transnationalism via integration, adding a new component to the three analytical levels (social practices, public policy and social theory). Such

an analysis is particularly important since “[t]he practice of multiculturalism was increasingly associated with forms of ‘unhealthy’ political transnationalism that made it potentially divisive and fragmentary” (Wong 2015, 82), particularly in the public discourse. In addition, more studies should employ multi-sited (cross-country) comparative research designs (one migrant group in several locations, or several groups in several locations) in order to further explore the relations between transnational practices, multicultural policies and migrant integration.

## 5. Conclusion

Instead of declaring the death of multiculturalism and by assuming the continuing importance of both transnationalism and multiculturalism within migration studies, this article has tried to sketch out possible avenues for further research involving intersections between the two notions. Migrant transnationalism and multiculturalism have been discussed, including their definitions, types, various approaches and some criticisms. After comparing the two concepts and examining some similarities and differences between them, possible paths for further research on multiculturalism and transnationalism have been laid out, based on the differentiation between the two notions at the public policy, social practice and theoretical level. It is possible to conclude that transnationalism and multiculturalism do not lead migration studies into an intellectual cul-de-sac, but offer many potentially rewarding paths for further research, some of which have been outlined in this paper. The social practices level appears as the richest for further research on intersections between multiculturalism and transnationalism, including “everyday multiculturalism” (Colombo 2015) or simultaneity (Levitt & Glick Schiller 2004). However, in order to avoid a further uncritical proliferation of meanings (and sometimes types) of both transnationalism and multiculturalism, it is useful to clearly define one’s approach in the future research studies and place them against (or next to) the existing research.

Finally, introducing a transnational perspective into the study of multiculturalism might yield potential epistemological benefits and correct some research biases. For instance, including different levels and scales of analysis beyond the national container, to which the study of multiculturalism has been so strongly connected, might alleviate “methodological nationalism” (e.g. Wimmer & Glick Schiller 2003) of multiculturalism. On the other hand, introducing hybridity and dynamics could de-essentialise and de-reify multiculturalism, and its “[tendency] to classify individuals and groups by a singular (ethnic, above all) identity” (Gomarasca 2013, 70). In addition, the study of the social processes within and beyond multicultural(ist) societies could also alleviate the “naïve normativity” of transnationalism, or the tendency of “portraying transnational phenomena in an excessively positive light” (Amelina & Faist

2012, 1708), and re-ground transnational practices in relevant social settings, without losing sight of the fact that national and local regulations and policies still matter.

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## Notes

- <sup>1</sup> One of the first attempts to differentiate types of transnationalism was the distinction between “transnationalism from above” and “transnationalism from below” (Guarnizo & Smith 1998).
- <sup>2</sup> According to The World Bank (2016) estimates, remittance flows have exceeded \$601 billion worldwide in 2015, of which \$441 billion was estimated to have flown to developing countries.
- <sup>3</sup> In contrast, multiculturalism is conspicuously absent in *The Blackwell Dictionary of Modern Social Thought* (Outhwaite 2006) and in *Encyclopedia of Social Theory* (Ritzer 2005).
- <sup>4</sup> Some types of multiculturalism denote more radical conceptions challenging the societal *status quo*. According to Mesić (2006, 126), most authors have adopted the term critical multiculturalism to denote its socially critical variant, opposing more socially affirmative liberal versions of multiculturalism. Other similar labels include insurgent multiculturalism (Giroux 1993), resistance or even revolutionary multiculturalism (McLaren 1995, 1996, in Mesić 2006).
- <sup>5</sup> When discussing MCPI scores, it is important to note that the existence of a policy should not be uncritically equated with its functionality in practice.

- <sup>6</sup> A more detailed discussion of particular types or approaches to transnationalism and multiculturalism, and their possible intersections, would largely surpass the spatial limitations of the article and is left for some future endeavours.
- <sup>7</sup> Reported results refer to the basic search conducted in February 2017.
- <sup>8</sup> It might also be worthy to note that the first use of “transnational” (Bourne 2006) corresponded more to the contemporary meaning of multiculturalism than transnationalism.
- <sup>9</sup> Hence, suffix -ism makes more sense in multiculturalism than in transnationalism.



Ksenija Vidmar Horvat

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## Človekove pravice v postnacionalni državi: utopična branja

V prispevku je analizirana usoda človekovih pravic v enaindvajsetem stoletju. Ta izhaja iz trojne opredelitve konteksta artikuliranja instituta človekovih pravic, in sicer pravnega, političnega in moralnega. Avtorica trdi, da so razmerja med tremi konteksti zaradi dejstva pospešene svetovne migracije in transformacije nacionalne države porušena ter da potrebujemo nove konceptualne pristope, ki bodo bližje uresničevanju človekovih pravic v praksi, predvsem ko gre za najranljivejše skupine in posameznike, kot so begunci in migranti. Analiza je vstavljena v okvire sociologije človekovih pravic, ki v mednarodnem akademskem prostoru pridobiva veljavo in pomen.

**Ključne besede:** sociologija človekovih pravic, državljanstvo, postnacionalna država, begunci, dostojanstvo, politika, deklaracije.

## Human Rights in the Postnational State: Utopian Readings

*This article analyzes the fate of the human rights in the 21st century. It derives from the definition of three contexts that define the human rights, the political, the legal and the moral. The author argues that the relationship among the three contexts, as settled in modernity, has been destabilized by processes of intense global migration and transformation of modern nation state. Therefore, we need new conceptual approaches that will account for the change and bring the realization of human rights in practice closer to the most vulnerable groups and individuals, especially refugees and migrants. The analysis refers to sociology of human rights which in contemporary academic debates is gaining on relevance and visibility.*

**Keywords:** sociology of human rights, citizenship, postnational state, refugees, dignity, politics, declarations.

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## 1. Uvod

V prispevku je analizirana družbena, moralna in pravna usoda človekovih pravic v enaindvajsetem stoletju. Temeljno izhodišče analize je vprašanje, ali institut človekovih pravic, kot ga je razumelo dvajseto stoletje, še lahko opravlja svoje poslanstvo v družbi enaindvajsetega stoletja. Družba, ki nastaja v kontekstih intenzivne globalizacije in pospešene svetovne migracije, namreč predstavlja nagle izzive za politike strpnosti, sobivanja in vključevanja. Čeprav sta tako globalizacija kot migracija nadzgodovinska pojava, ki ju ni mogoče zamejiti z zadnjimi desetletji svetovnega razvoja, pa na začetku enaindvajsetega stoletja oba pridobivata nove lastnosti. Globalizacija, ki jo je družbena teorija od devetdesetih let prejšnjega stoletja povezovala s političnimi, ekonomskimi in kulturnimi preobrazbami odnosa med globalnim in lokalnim ter ki je težila k razumevanju predvsem novih organizacij družbenega življenja (Beck 2001, 2003, Beck & Grande 2006, Habermas 2001), kar se je izrazilo v konceptih postnacionalne, kozmopolitske in deteritorializirane države, se v novem tisočletju srečuje z izzivom protigeografij globalizacije (Sassen 2000). Protiglobalizacija oblikuje povsem drugačna razmerja med centrom in periferijo, ki bodisi v oblikovanju *off-shore* proletariata ali v obliki skrbstvenega kapitalizma, sestavljenega iz povečini feminizirane migrantske delovne sile, spreminja zgodovinske parametre produkcije življenja. Migracija stoji na presečišču ekonomij centra in periferije, s tem pa v ospredje potiska vprašanje moderne družbene pogodbe, vključujoč njena temelja, državljske in človekove pravice.

## 2. Postnacionalna država: minimalna opredelitev

Teoretsko izhodišče za razpravo je sociologija človekovih pravic (Frezzo 2014). Do nedavnega so bile človekove pravice v domeni filozofije, prava in politologije, sociološki vidiki prava (Žun 2014) pa so ostajali v ozadju razprave. Toda ekonomske, politične in kulturne spremembe, ki z zalet globalizacije prihajajo tako do makro kot mikro ravni organizacije družbenega življenja, bi morale sociološka razpravljajna potisniti v ospredje tematike preobrazb v sferi vladanja s pravom. Omenimo le najočitnejši izziv: pravna država, katere nasledstveni subjekti smo, se je oblikovala v zgodovinskih okvirih nacionalnih demokracij s političnim telesom, ki je bilo relativno homogeno in stabilno. V času, ki ga mnogi imenujejo postnacionalno stanje (Habermas 2001, Held 2003), se podoba politične skupnosti dramatično spreminja. To pa pomeni, da se z njo spreminjajo tudi zgodovinski postulati državljanstva. Med njimi izstopa stanje nedržavljanstva in z njim povezanega pravnega urejanja pravic in pripadanja vseh, ki so se znašli v njegovem primežu začasno ali dolgotrajno.<sup>1</sup>

Pojem postnacionalne države si je v družbeni teoriji že pridobil domovinsko pravico, vendar je razumevanje pogosto dvoumno. Postnacionalno stanje lahko

pomeni demokratično konstelacijo, ki ohranja zahodno tradicijo liberalne demokracije, utemeljene na pravnih normah in civilnih svoboščinah. To dediščino se nato, kot pri Habermasu (2001), preslika na postnacionalno državo, ki je hkrati samostojna enota in del širše, transnacionalne skupnosti. Kot to na primeru Evropske unije (EU) v intervjuju za nemški časopis opredeli Beck (Limone 2012), ni dovolj, da razmišljamo o drugačni Evropi, razglabljati moramo tudi o tem, kako predrugačiti evropske države. Tak primer bi bila EU, kjer bi bil temeljni princip sobivanja in lojalnosti povezan z modelom ustavnega patriotizma, to je zavezanostjo pravnim načelom demokratične, pluralne družbe.

Sociološki modernisti, kot sta Habermas in Beck, se pri rekonstituciji v postnacionalno stanje ozirajo v preteklost, iz katere želijo rešiti prvine modernosti, ki so jih razvrednotili nasilni nacionalizmi in agresivni svetovni kapital. Dennis Smith (2013) ta napor modernistov opisuje kot osnovan na metodi "od-učenja evropskega volilnega telesa" (Smith 2013, 28). Evropski volivci naj bi se naveličali političnega vodenja, ki ga narekuje trg, kar bi pripeljalo do vznika nove generacije "reformiranih politikov in državljanjskih skupin, ki bi se zavezali k transnacionalnemu delovanju" (Smith 2013, 28). Preobrazba bi vodila k "novi družbeni pogodbi med sveže razsvetljenimi evropskimi vladami. Rezultat bi bila transnacionalna demokracija, ki bi zagotavljala varnost in pomoč v okviru evropske solidarnosti" (Smith 2013, 28).

Smithov implicitni cinizem je na mestu in tudi, ko gre za poskuse vračanja k velikim pripovedim, vreden opomnik teže apriornega dvoma. Podobno dvomljiva, kot se je že izkazalo, pa so tudi nasprotna, postmoderna branja, posebej tista, ki usodo postnacionalne države vstavljajo v kozmopolitski model. Kozmopolitska država se v načelu humanističnega univerzalizma sicer še najbolj približa udejanjenju človekovih pravic v praksi, saj ob spoštovanju pravic državljanov in državljanek varuje idejo "pravice do pravic" tudi vseh tistih, ki so se znašli v položaju tujcev (Nusbaum 1994, Benhabib 2006, 2010). Toda ko kozmopolitska ideja prestopi v polje identificiranja subjekta kozmopolitske države, se kritiki upravičeno obregnejo ob prikriti evrocentrizem, ki stoji v ozadju (Santos 2008). Ta se še najočitneje kaže v načinu zamišljanja svetovnega reda, ki kozmopolitski duh, z nemalo navdušenja, poveže s koncepti tujstva in nepripadanja (Vidmar Horvat 2012). To, da je kozmopolitska teorija na temeljih idealiziranja tujstva danes, po kratkih dveh desetletjih intenzivne produkcije znanstvenih del, že v zatonu, samo po sebi govori o zanosu brez prave kritične, pa tudi zgodovinske podlage.

Za namene te analize je postnacionalno stanje opredeljeno sledeč minimalnemu teoretskemu konsenzu, kot ga je mogoče izluščiti iz različnih razprav in pristopov. Prvič, nacionalna država danes spreminja svojo zgodovinsko vlogo, vključujoč suverenost in avtonomijo pri upravljanju družbenega življenja. To vlogo v veliki meri prevzemajo akterji globalnega trga, svetovne organizacije in mednarodno pravo (Brown 2010, Held 2003, Sassen 2014). Postnacionalno

stanje nadalje pomeni družbeno in politično organizacijo življenja, ki se odreka (četudi pri življenju lahko ohranja njegovo fantazijsko moč) modernemu modelu vzdrževanja homogenosti skupnosti prek identitetnega etno-kulturnega pripadanja. Tretjič, s pretvorbo kulturnoidentitetne v neoliberalno-tržno obliko v postnacionalni državi začneta odmirati solidarnost in lojalnost, ki sta predstavljali temelj moderne politične skupnosti. Najočitnejši primer tega razvoja je šovinizem socialne države (Kymlicka 2015). Četrto, transformira se tudi zgodovinska konstitucija subjekta državljan. Vladanje v moderni državi temelji na "kultu individuuma", opredeljenega s pravico do lastnine (Elliott 2014). V postnacionalni državi se moderno stanje individualizacije pretvarja v intenzivno fazo prekarizacije (Bauman 2013, 2016). Prekarizacija pomeni obliko odnosov v produkciji življenja, ki temeljijo na neoliberalni samorealizaciji "podjetniškega posameznika" (McCormack & Salmenniemi 2016). Ta je zlahka in, kot kažejo posledice varčevalnih ukrepov po zadnji finančni krizi, dejansko razlaščen: pogosto je edina oblika lastnine, ki jo ima, lastnina v telesu. V stanju prekarnosti se državljan ne nahaja sam, z njim si usodo deli delavec migrant. Petič, na izpraznjenem mestu hegemonne etnične skupnosti, ki ga z globalno mobilnostjo delovne sile proizvaja svetovni kapitalizem, vznikata atomizirana prekarna skupnost z nejasnimi in začasnimi mejami med tujci in domačini (Calavita 2005). V prekarni obliki delitve dela se, če parafraziramo Marxa, delavcu državljanu kot nasprotnik ne kaže več država; vir konfliktov in negotovosti projicira v tekmece na trgu prekarnosti: migranta.

Postnacionalno stanje ne pomeni konca države, temveč permutacijo njene konsolidirane moderne oblike, ki je bila na zgodovinskem prizorišču prisotna do sedemdesetih let dvajsetega stoletja in katere usodo je zapečatil prihod fleksibilne akumulacije. Postnacionalno stanje pomeni dramatično zarez v konceptu državljanstva. Na tem mestu ni mogoče obnoviti vseh izzivov, ki so se izrisali ob koncu dvajsetega stoletja; na mestu koherentne obravnave razvoja si tu zastavljam naslednji dve, deloma naivni in deloma analitični vprašanji: če je moderno državljanstvo rezultat uveljavitve nacionalne (v devetnajstem stoletju) in socialne države (v dvajsetem stoletju), kaj se zgodi, ko nacionalna država prehaja v postnacionalno obliko, kjer so tako politične kot socialne pravice prepuščene neoliberalnim oblikam vladanja? Ali bi, upoštevajoč dejstvo, da naše stoletje postaja stoletje migrantov (Nail 2016), vlogo (in naloge) nacionalnega državljanstva v postnacionalni konstelaciji pravičneje in bolj demokratično lahko urejali s človekovimi pravicami? Preden poskusimo z odgovorom, izrišimo tri temeljne kontradikcije v razvoju konceptov državljanstva in pripadanja v poznem dvajsetem stoletju.



### 3. Človekove pravice med državnim in globalnim redom

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Po Stanfordski enciklopediji filozofije so pravice tiste, ki strukturirajo obliko vladanja, vsebino zakonov in obrise moralnosti. Oblast, pravo in morala so osi državljanstva, ki določijo strukturo glede na zgodovinski kontekst, v katerem se artikulirajo. V politični zgodovini modernosti se državljanstvo oblikuje kot sredstvo nacionalne države, ki (1) prek pravnega in političnega članstva (2) posameznika poveže z državo ter (3) ga prek dejstva njegovega biološkega življenja (*zoe*) konstituira kot politično bitje (*bios*). Vez med posameznikom in nacionalno državo je naključna (Nussbaum 1994), vendar zadosti prikrita v svoji arbitrarnosti, da ustvarja solidarnost med posamezniki, ki se vidijo v podobi pripadnikov ene, to je mi skupnosti. Solidarnost z etno-kulturnim inženiringom krepijo nacionalne elite, moralno dimenzijo univerzalne humanosti, torej drugo plat razsvetljenske ideje "večnega miru", pa zagotovi "iznajdba človekovih pravic" (Hunt 2015). Toda v kontekstu moderne nacionalne države so človekove pravice redundantni, kvečjemu sekundarni mehanizem za zagotavljanje spoštovanja pravic posameznika. Primarno nalogo namreč že opravi moderno nacionalno državljanstvo, ki za večino vključuje temeljne postulate človekovih pravic. Vsem tistim, ki so nosilci nacionalnega državljanstva, se tako (upravičeno) dozdeva, da govor o človekovih pravicah zadeva predvsem manjšine, tiste brez državljanstva, prosilce za azil, migrante. Kar zadeva slednje, se človekove pravice utemeljeno kažejo kot institut konsolidacije principa nacionalnega državljanstva (Douzinas 2014): krepijo avtoriteto nacionalne države, medtem ko njim samim ne prinašajo kaj bistveno novega, zagotovo ne realizacije v političnih (in socialnih) pravicah nacionalnega članstva in pripadanja.

Ponazorimo z nekaj izbranimi primeri. Splošna deklaracija človekovih pravic (1948, v nadaljevanju Deklaracija oziroma SDČP) se (v skrajšani obliki) v prvih desetih členih glasi takole:

1. člen: Vsi ljudje se rodijo svobodni in imajo enako dostojanstvo in enake pravice /.../
2. člen: Vsakdo je upravičen do uživanja vseh pravic in svoboščin, ki so razglašene s to Deklaracijo /.../
3. člen: Vsakdo ima pravico do življenja, do prostosti in do osebne varnosti.
4. člen: Nihče ne sme biti držan ne v suženjstvu ne v tlačanski odvisnosti; suženjstvo in trgovina s sužnji v kakršnikoli obliki sta prepovedana.
5. člen: Nihče ne sme biti podvržen mučenju ali okrutnemu, nečloveškemu ali ponižujočemu ravnanju ali kaznovanju.
6. člen: Vsakdo ima povsod pravico do priznanja pravne sposobnosti.
7. člen: Vsi so enaki pred zakonom, vsi, brez diskriminacije, imajo pravico do enakega pravnega varstva /.../

8. člen: Vsakdo ima pravico do učinkovitega pravnega sredstva pri **pristojnih državnih sodnih** oblasteh proti dejanjem, ki kršijo temeljne pravice, priznane **mu po ustavi ali zakonu** [vsi poudarki avtoričini].
9. člen: Nihče ne sme biti samovoljno zaprt, pridržan ali izgnan.
10. člen: Vsakdo je pri odločanju o njegovih pravicah in dolžnostih in v primeru kakršnekoli kazenske obtožbe zoper njega upravičen ob polni enakosti do pravičnega in javnega obravnavanja pred neodvisnim in nepristranskim sodiščem (SDČP 1948).

Deklaracija človekove pravice določi deskriptivno in vsebuje elemente religioznosti (Elliott 2014). Izhodišče je posameznik (vsakdo), ki ga opredeljuje svetost življenja. Iz ontološkega dejstva (biološkega) življenja izhaja njegova pravna eksistenca. Četudi, kot navaja Elliott (2014), se prvih deset členov bere kot deset zapovedi, v nasprotju z božjim besedilom Deklaracija določi pristojne organe nadzora nad varovanjem pravic, in sicer v institucijah državne (sodne) oblasti, vključujoč ustavo in zakonodajo države uveljavljanja pravic.

Tudi kronološko naslednji dokument po Deklaraciji, Mednarodni pakt o državljanskih in političnih pravicah (1966, v nadaljevanju Pakt oziroma MPDPP), v Preambuli navaja, da obe obliki pravic, državljanska in politična, izhajata iz "dostojanstva, ki je prirojeno človekovi osebnosti" (MPDPP 1966, Preambula); Pakt torej povzema Deklaracijo v njenem duhu. V naslednjem koraku pa tudi v besedi, ko zapiše, da je

po Splošni deklaraciji človekovih pravic mogoče doseči ideal svobodnega človeškega bitja, ki uživa državljanske in politične svoboščine in je prosto strahu in revščine, le tedaj, če so ustvarjeni pogoji, ki omogočajo vsakomur, da uživa svoje državljanske in politične pravice ter svoje ekonomske, socialne in kulturne pravice (MPDPP 1966, Preambula).

Pakt v 2. členu podpisnicam nalaga,

da bodo spoštovale in vsem ljudem, ki so **na njihovem ozemlju** [poudarek avtorice] in pod njihovo pristojnostjo, zagotovile v tem Paktu priznane pravice, brez razlikovanja glede na raso, barvo, spol, jezik, vero, politično ali drugo prepričanje, narodno ali socialno poreklo, premoženje, rojstvo ali kakršnokoli drugo okoliščino (MPDPP 1966, 2. člen).

V 5. členu je navedeno, da nobene določbe

ni mogoče razlagati tako, kot da bi dajala kaki državi, skupini ali posamezniku kakršnokoli pravico delati ali storiti karkoli, kar bi imelo namen spodkopati v tem Paktu priznane pravice in svoboščine ali jih bolj omejiti, kot je to predvideno v njem (MPDPP 1966, 5. člen).

ter da se ne priznavata

nobena omejitev in nobena razveljavitev temeljnih človekovih pravic, ki so posamezni državi pogodbenici tega Pakta priznane ali v veljavi po zakonih, konvencijah, predpisih ali običajih, z izgovorom, češ da jih ta Pakt ne priznava ali da jih priznava v manjši meri (MPDPP 1966, 5. člen).

Pakt nadalje govori o političnih in državljskih pravicah, ki jih zahteva za vse ljudi enako. Z drugimi besedami, za vsako osebo, ne glede na politično ozemlje, ki mu je dodelilo (primarno) državljanstvo, zahteva status subjekta pravnega reda: "Vsakdo ima pravico, da mu je povsod priznana pravna osebnost" (MPDPP 1966, 16. člen). Državni princip uveljavljanja pravic je opredeljen s časovno-teritorialnim in ne političnim statusom: "Vsakdo, ki je zakonito na ozemlju kake države, ima na tem ozemlju pravico do svobode gibanja in svobodne izbire prebivališča" (MPDPP 1966, 12. člen). Kakor Deklaracija tudi Pakt za vlogo varuhinje zagotavljanja političnih pravic določi državo; ker so te imenovane kot ločene od državljskih pravic, kar potrjuje tudi raba besed vseh, vsem, vsakomur, varuštvo vključuje ljudi z državljanstvom druge države, ki se zakonito gibljejo na njenem ozemlju.

Tako kot morala tudi pravo ni preprosta vaja v razmišljanju, kot navaja Douzinas (2014) " /.../ moralni konflikt prodira v pravne arhive, pravne ovire pa se postrojijo v moralno odgovornost". V besedilu Pakta trk med obema nastopi na več mestih. Pravica do pravic je zamejena z zakonitostjo nahajanja na teritoriju države, ki izvaja spoštovanje določil Pakta. Nezakonitost ni univerzalna kategorija (kot na primer življenje), temveč družbeno in zgodovinsko proizvedeni teorem oblasti: v antiki so bili nezakoniti barbari, v srednjem veku okuženi s kugo, nadalje potepuhi, berači in čarovnice, zatem priseljenci in migranti. Besedilo Pakta vrhovno avtoriteto kategoriziranja subjektov, ki je nekoč pripadala bogu, dodeli pravu: toda s tem prava ne osvobodi tuzemskih skušnjav, temveč namesto da bi vztrajalo pri inherentnem dejstvu pravnih določil, univerzalno dopolni z moralnim. 3. točka istega člena določa:

Zgoraj navedene pravice smejo biti omejene le, če so omejitve z zakonom predvidene, če so potrebne za zaščito **nacionalne varnosti, javnega reda, javnega zdravja ali morale** [poudarek avtorice], ali pa pravic in svoboščin drugih, in če so te omejitve v skladu z drugimi pravicami, ki jih priznava ta Pakt (MPDPP 1966, 12. člen).

Moralni princip je v koliziji s pravnim tudi v 13. členu, ki se glasi: "**Tujec** [poudarek avtorice] ki je zakonito na ozemlju države pogodbenice tega Pakta, sme biti izgnan s tega ozemlja le na podlagi sklepa, izrečenega v skladu z zakonom /.../ " (MPDPP 1966, 13. člen). Kdo je ta tujec in glede na katero kategorijo se posamezniku določi status tujstva? Ali je beseda tujec pravno sprejemljiva:

kakšno stanje opisuje in v kateri točki državljan postane tujec? So merila tujstva državne meje in ali v tem smislu pravo ni v nasprotju z obema listinama, pa tudi nekonsistentno v lastnem besedilu, ki naj bi korigiralo anomalije nasilja države?

Kontradikcija postane očitnejša v skupnem branju Pakta in Deklaracije. 2. člen Deklaracije navaja: "Nadalje ni dopustno nikakršno razlikovanje glede na politično ali pravno ureditev ali mednarodni položaj dežele ali ozemlja, ki mu kdo pripada /.../" (SDČP 1948, 2. člen); v tej navedbi je avtoriteta države podrejena avtoriteti slehernika, ki pripada bodisi državi bodisi ozemlju, ki si ga ta lasti. Deklaracija v 12. členu izpostavlja pravico do svobodnega gibanja in "izbire prebivališča znotraj meja določene države" ter da ima vsakdo "pravico zapustiti katerokoli državo, vključno s svojo lastno, in vrniti se v svojo državo" (SDČP 1948, 12. člen). Prav tako v 14. členu navaja: "Vsakdo ima pravico v drugih državah iskati in uživati pribežališče pred preganjanjem" (SDČP 1948, 14. člen). V 15. členu pa: "(1) Vsakdo ima pravico do državljanstva." in "(2) Nikomur se ne sme samovoljno vzeti državljanstvo ali zakonita pravica do spremembe državljanstva" (SDČP 1948, 15. člen).

Ali ni državljanstvo posamezniku odvzeto v trenutku, ko se ga na ozemlju druge države imenuje za tujca? Z vidika delovanja pravne države seveda posamezniku ni mogoče odvzeti nečesa, kar mu v jurisdikciji konkretne države nikoli ni bilo dodeljeno. Lahko pa je to odvzeto v moralnem in pravnem smislu univerzalnih pravic, predvsem tiste, ki za vsakega človeka zahteva status subjekta pravnega prepoznanja. Administrativno (ilegalno, nezakonito, tujci) se pomeša s pravnim in moralnim vidikom človekovih pravic (vključujoč politične), kar kaže na slabo artikulirano politično željo, namreč da bi se dokončno uredile napetosti in neskladja med univerzalnimi človekovimi pravicami in pravicami državljana. Kot to po svojem opažanju položaja beguncev zapiše Agamben, se po drugi svetovni vojni tako mednarodne organizacije kot posamezne države "kljub slovesnim razglasitvam 'svetih in neodtujljivih' človekovih pravic izkažejo za absolutno nesposobne ne le za reševanje problema, temveč tudi zgolj za to, da bi se soočile z njim na ustrezen način" (Agamben 2004, 144).

Politična stiska se izraža diskurzivno: 28. člen Deklaracije navaja: "Vsakdo je upravičen do **družbenega** [poudarek avtorice] in mednarodnega reda, v katerem se lahko v polni meri uresničujejo pravice in svoboščine, določene v tej Deklaraciji" (SDČP 1948, 28. člen). Besedilo na isti plato zvrne sociološke kategorije, ki pripadajo različnim redom vladanja: mednarodno ni povečana dimenzija družbenega, temveč nacionalnega, torej državnega v modernem pomenu besede (tako imenovana internacionalizacija, ki jo kot moderno *episteme* utrdi akademsko polje študijev mednarodnih odnosov). Neskladja se kažejo tudi, ko gre za pravno in moralno priznane državljane. 22. člen Deklaracije se glasi:

Vsakdo ima kot **član družbe** [poudarek avtorice] pravico do socialne varnosti in pravico do uživanja, s pomočjo prizadevanja svojih skupnosti in mednarodnega

sodelovanja in v skladu z ureditvijo in sredstvi neke **države** [poudarek avtorice], ekonomskih, socialnih in kulturnih pravic, nepogrešljivih za njegovo dostojanstvo in svoboden razvoj njegove osebnosti (SDČP 1948, 22. člen).

Če bi besedilo brali z doslednostjo zapisanega, bi to pomenilo, da je vsako družbeno bitje že subjekt varovanja (katere koli) države, in obratno: neka (vsaka) država mora skrbeti, da so vsem ljudem na njenem območju zagotovljeni ukrepi varovanja dejstva človekovega življenja.

Takšno razumevanje bi izhajalo tudi iz branja ustavnih besedil. Ustavne listine so dokumenti državljskega podvajanja človekovih pravic. "Deklaracije pravic pomenijo izvorno obliko vpisa naravnega življenja v pravno-politični red nacionalne države" (Agamben 2004, 138). Principe svobode, enakosti, (socialne) varnosti in človekovega dostojanstva podvojijo tako, da določijo pravne okvire države, ki je skrbnica izvajanja mednarodnega prava. V trenutku, ko človekove pravice dobijo zapis v državljski obliki, izgubijo svojo univerzalnost: četudi aludirajo na vse (v moralnem smislu), (v pravnem smislu) veljajo za nosilce državljanstva oziroma skupine, ki jih, kot sta na primer v slovenski ustavi madžarska in italijanska manjšina, besedila posebej izpostavijo.

V Preambuli k Ustavi Republike Slovenije (RS) sta omenjena oba pravna vira: Deklaracija (na podlagi "temeljnih človekovih pravic in svoboščin") in Pakt (na podlagi "temeljne in trajne pravice slovenskega naroda do samoodločbe"). Razdelek II. Človekove pravice in temeljne svoboščine je v celoti prepis univerzalnega na nacionalno, kot sledi v členih:

5. člen: Država na **svojem ozemlju varuje** [poudarek avtorice] človekove pravice in temeljne svoboščine /.../ Varuje in zagotavlja pravice avtohtone italijanske in madžarske narodne skupnosti. Skrbi za avtohtone slovenske narodne manjšine v sosednjih državah, za slovenske izseljence in zdomce, ter pospešuje njihove stike z domovino /.../ Slovenci brez slovenskega državljanstva lahko uživajo v Sloveniji posebne pravice in ugodnosti. Vrsto in obseg teh pravic in ugodnosti določa zakon (Ustava Republike Slovenije 1991, 5. člen).

13. člen: Tujci imajo v Sloveniji v **skladu z mednarodnimi pogodbami vse pravice** [poudarek avtorice], zagotovljene s to ustavo in z zakoni, razen tistih, ki jih imajo po ustavi ali po zakonu samo državljani Slovenije (Ustava Republike Slovenije 1991, 13. člen).

14. člen: V Sloveniji so **vsakomur** [poudarek avtorice] zagotovljene enake človekove pravice in temeljne svoboščine, ne glede na narodnost, raso, spol, jezik, vero, politično ali drugo prepričanje, gmotno stanje, rojstvo, izobrazbo, družbeni položaj, invalidnost ali katerokoli drugo osebno okoliščino /.../ (Ustava Republike Slovenije 1991, 14. člen).

15. člen (uresničevanje in omejevanje pravic): **Človekove pravice in temeljne svoboščine se uresničujejo neposredno na podlagi ustave** [poudarek avtorice] /.../ Človekove pravice in temeljne svoboščine so omejene samo s pravicami drugih in v primerih, ki jih določa ta ustava. Zagotovljena sta sodno varstvo človekovih pravic in temeljnih svoboščin ter pravica do odprave posledic njihove kršitve. **Nobene človekove pravice ali temeljne svoboščine** [poudarek avtorice], urejene v pravnih aktih, ki veljajo v Sloveniji, ni dopustno omejevati z izgovorom, da je ta ustava ne priznava ali da jo priznava v manjši meri (Ustava Republike Slovenije 1991, 15. člen).

22. člen (enako varstvo pravic): **Vsakomur** [poudarek avtorice] je zagotovljeno enako varstvo njegovih pravic v postopku pred sodiščem in pred drugimi državnimi organi, organi lokalnih skupnosti in nosilci javnih pooblastil, ki odločajo o njegovih pravicah, dolžnostih ali pravnih interesih (Ustava Republike Slovenije 1991, 22. člen).

Iz navedenih členov je razvidno, da Ustava RS zavezuje k prenosu uresničevanja, omejevanja in varstva človekovih pravic na raven države. Specifično nacionalna dodatka v tem besedilu sta, (1) da imajo po Ustavi RS človekove pravice mestoma status avtonomne svetosti (in nedotakljivosti), da so torej subjekt prava pravice (in ne človek kot njihov nosilec), in (2) da država pripravljenost prenosa izvrševanja dela suverenih pravic na mednarodne ustanove pogojuje, izhajajoč iz nadaljevanja besedila ("Pred ratifikacijo mednarodne pogodbe iz prejšnjega odstavka lahko državni zbor razpiše referendum /.../ Državni zbor je vezan na izid referendum" (Ustava Republike Slovenije 1991, 1–2), z ljudsko voljo. Da se o pravicah, ki spadajo v sklop temeljnih človekovih pravic, odloča z referendumskim glasovanjem, pomeni podreditev prava morali (in politiki), kar se je ob referendumih o družinskem zakoniku ali pravici do umetne oploditve samskih žensk v kratki zgodovini samostojne države že izkazalo kot dejstvo in ponovljiva epizoda. V teoretskem smislu nam to pomaga potrditi vednost sociologije prava, ki poudarja, da človekove pravice niso nespremenljivi atributi, temveč zahteve, ki se zgodovinsko določajo (Habermas 2012) in ki lahko služijo tako opolnomočenju kot slabitvi družbene moči tistih, ki bi najbolj potrebovali njihovo zaledje.

#### 4. Socialne pravice in zaton socialne države

Vrnimo se k institutu človekovih pravic in njegovim zgodovinskim artikulacijam v evropski modernosti. Človekove pravice so produkt in sopotnik modernosti in kapitalizma. V Teoriji moralnih čustev (1759) Smith tako že časti dobrotništvo, ki je namenjeno ranljivim drugim, in ga opisuje kot "temeljno moralno lastnost človeške psihe" (citirano v Chouliaraki 2013, 10); hkrati v Bogastvu narodov (1776) zagovarja amoralno "nevidno roko" trga (citirano v Chouliaraki 2013, 10). Ta tako imenovani "problem Adama Smitha", trdi Chouliaraki (2013, 10), moramo razumeti kot temelj modernega humanitarizma; z njim so dane podlage za legitimacijo kolonialne modernosti.

Agamben dvoumnost projicira navznoter, v delovanje države na telesu "suverena subjekta" (Agamben 2004). Izvorni pravno-politični odnos moderne države, kot navaja, je izobčenje in ne pogodba. Nadaljuje:

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Bistroumno je bilo opaženo, da se država ne utemeljuje na družbeni zavezi, katere izraz naj bi bila, temveč na njeni razvezi (*déliaison*), ki prepoveduje /.../ *Déliaison* ne smemo razumeti kot razvezo predobstoječe vezi (ki bi lahko imela obliko pakta ali pogodbe); vez sama ima izvorno obliko razveze ali izjeme, v kateri je to, kar je zajeto, hkrati izključeno, in v kateri se človekovo življenje politizira samo prek zapustitve nepogojni oblasti nad smrtjo (Agamben 2004, 101).

To napačno razumevanje Hobbesovega mitologema na način pogodbe, ne pa izobčenja, po Agambnu stoji na začetku vsakokratne nemoči demokracije, da bi, poenostavljeno, reševala življenja ljudi "na nikogaršnji zemlji med hišo in mestom" (Agamben 2004, 120). Ustava in nacionalna zakonodaja z vključevanjem človekovih pravic zagotovita pravne okvire izobčenja. Kot navaja Douzinas (2014), "človekove pravice pomagajo pri konstruiranju tega, kdo in kako nekdo postane človek". Ali kot sta že pred časom zapisali Butler in Spivak:

Lahko bi pričakovali, da, vsaj do določene mere, država predpostavlja oblike pravnega pripadanja, toda ker je država prav tisto, kar izključuje in suspendira oblike pravne zaščite in obveznosti, nas, nekatere od nas, država lahko spravi v prav posebno stanje. Lahko označuje vir nepripadanja, nepripadanje kot neko kvazi-permanentno stanje lahko celo sama proizvede (Butler & Spivak 2011, citirano v Vidmar Horvat 2012, 3–4).

Ko so v Evropi v dvajsetem stoletju drugič odkrite človekove pravice in zapisane v obliki deklaracije, se v vez med univerzalnim in nacionalnim zareže humanitarno razumevanje, ki pravice depolitizira. "Po 2. svetovni vojni človekove pravice ločijo od državljanskih, od tedaj dalje vse mednarodne organizacije in mehanizmi delujejo zgolj v kontekstu humanitarnega in socialnega, ne pa političnega" (Agamben 2004, 144). Rezultat je napredovanje človekovih pravic v smeri, tako Foucault, množenja in kvadriljiranja kategorij kršitev (Foucault 2000, citirano v Mezzadra & Neilson 2013). Elliott (2014) učinkovito prikaže razvoj. Avtor s pomočjo podatkovne metode *Master List* v mednarodnih pravnih dokumentih s področja človekovih pravic zaznava naslednje: pred prvo svetovno vojno je 80 odstotkov instrumentov človekovih pravic zadevalo vprašanja vojne in obravnave vojnih ujetnikov in ranjencev. Po prvi svetovni vojni se v ospredju pojavijo področja svobode, ki zadevajo transport, azil, izgon. Po drugi svetovni vojni se tematike iz skupinskih pravic predstavljajo k človekovim pravicam posameznika, množijo se kategorije ranljivih, predvsem otroci, ženske, ljudje s posebnimi potrebami, manj pozornosti je namenjene beguncem, manjšinam in družini. Naposled po devetdesetih letih prejšnjega stoletja na prizišče stopajo nove kategorije: suženjstvo, mučenje, nasilje nad otroki (ugra-

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bitev, trgovina, beračenje, otroško delo, nasilje v družini); po letu 2000 še zlorabe duševnih bolnikov, ponižujoča zaposlitev, prezgodnja smrt.

Bolj ko se drobijo in množijo posebne pravice, manj zavezuječe so zgodovinsko temeljne pravice. Bolj ko se civilne pravice prepojijo s celoto določenega pravnega sistema, tako Habermas (2012, 80), pogosteje se zgodi, da se njihov vertikalni vpliv, ki določa odnose med posameznikom in državo, preseli na horizontalne odnose med posamezniki in skupinami. Rezultat so povečana trenja, ki zahtevajo dodatno uravnavanje posameznih zahtev glede na temeljne pravice (Habermas 2012, 80). Napetost v diskurzu pravnih listin ureja morala oziroma, natančneje, njena odsotnost. Medtem ko smo v zgornjih besedilih zaznavali moralni diskurz, ko je šlo za reguliranje človekovih pravic z načeli omejevanja in posebnih (z zakonom določenih) obravnav, ko gre za socialne pravice, ki stojijo na presečišču morale in politike, vlada pusti diskurz prava. 2. člen Ustave RS določa: "Slovenija je pravna in socialna država" (Ustava Republike Slovenije 1991, 2. člen). Socialne pravice so suhoparno pravno dejstvo brez navajanja instituta človekovih pravic. 23. člen Ustave RS omenja "pravico do dela", obliko plačila, "ki zagotavlja njemu in njegovi družini človeka vreden obstoj in ki naj se po potrebi dopolni z drugimi sredstvi socialnega varstva" (Ustava Republike Slovenije 1991, 23. člen). 25. člen Ustave RS pa navaja:

Vsakdo ima pravico do takšne življenjske ravni, ki zagotavlja njemu in njegovi družini zdravje in blaginjo, vključno s hrano, obleko, stanovanjem, zdravniško oskrbo in potrebnimi socialnimi storitvami; pravico do varstva v primeru brezposelnosti, bolezni, delovne nezmožnosti, vdovstva ter starosti ali druge nezmožnosti pridobivanja življenjskih sredstev zaradi okoliščin, neodvisnih od njegove volje (Ustava Republike Slovenije 1991, 25. člen).

V členih, ki omenjajo človekovo dostojanstvo, torej moralno kategorijo *par excellence*, k pravnemu diskurzu ni zaznati moralnih aneksov človekovih pravic. Socialna država je podrejena vladavini pravne države:<sup>2</sup> njeno oblast se lahko izpodbija le po zakoniti in pravni poti, torej z instrumenti, ki so človeku, čigar dostojanstvo je z odvzemom blaginje in človeka vrednega obstoja porušeno, nedosegljivi, razumljivi pa v moralnem smislu. S pomočjo prava (Ustave Republike Slovenije) se država odpove pogodbeni zavezi – morali (Deklaraciji).

## 5. Nastajajoče kontradikcije

To je torej faza zatona socialne države, ki jo v diskurzu prava prepoznamo po dvoumni rabi moralnega diskurza. Ko gre za tujce in druge ranljive skupine, je uveljavljanje instituta človekovih pravic v praksi vselej aposteriorno dejstvo, ki sledi primatu kriminaliziranja: dejstva ilegalnosti, zlorab, nedovoljene trgovine, terorizma itn. so vselej v prednosti pred obravnavo zagotavljanja človeko-



vega dostojanstva (de Genova 2013). Za to skrbita instituta javnega zdravja in varnosti. Nasprotno je pri uveljavljanju socialnih pravic: javno zdravje in varnost (izhajajoč iz neobubožanega ljudstva z občutkom lastnega dostojanstva) izpodrine moralna praznina ultimata (vsakdo ima) – brez posledic v zakonodaji.

To je zapuščina modernega nastajanja in polnjenja prazne formule, človekovega dostojanstva, ki stoji na začetku človekovih pravic. Habermas (2012, 75) človekovo dostojanstvo imenuje moralni vir, iz katerega izhajajo vse temeljne pravice. Pomen in urgentnost pri opredeljevanju človekovega dostojanstva pa se zgodovinsko spreminjata; lahko vodita k skorajda popolni realizaciji njegove normativne substance ali pa kličeta po novih oblikah civilnih pravic (Habermas 2012, 77–78). Zato moramo, kot navaja Habermas (2012, 81), “človekovo dostojanstvo” razumeti kot seizmograf, ki “zaznava, kaj je konstitutivnega za določeni demokratični pravni red”, in “portal, skozi katerega v zakon pronica egalitarna in univerzalistična substanca morale” (Habermas 2012, 81).

V Habermasovem filozofskem racionalizmu so človekove pravice progresivno prepisujejo v pozitivne zakone; so izraz razsvetljene morale, vsajene v robustno politično realnost na način zamejujočega zakona. Prevod prve človekove pravice v pozitivno zakonodajo je hkrati porodil “pravno obvezo, da se uveljavijo natančne moralne zahteve, ki so od tedaj vklesane v kolektivni spomin človeštva” (Habermas 2012, 95). Hkrati poudarja, da je človekove pravice mogoče udejanjati zgolj v konkretni politični skupnosti. Tej racionalni predstavi stojita na poti politični in ekonomski razvoj, ki fragmentirata subjekt, nosilca izrekanja zahtev.

Najnovejša faza zahodne modernosti je proizvedla postnacionalno državo, v kateri postaneta zgodovinsko vidni pravna in moralna nemoč nacionalne države, da realizira razsvetljensko utopijo človekovih pravic. Transnacionalizacija in globalizacija sta nacionalni državi odvzeli pristojnosti avtonomnega urejanja družbenega življenja, in sicer tako v ekonomski bazi kot politični nadstavbi. Posledice za področje urejanja človekovih pravic so dvotirne: v sferi političnega je mednarodno pravo (tribunali, sodišča, deklaracije) prevzelo nadzor nad spoštovanjem in uveljavljanjem človekovih pravic, ko so posamezniku kršene s strani njegove/njene nacionalne države. Za nadzorovanje ekonomsko proizvedenih mehanizmov kršenja človekovih pravic mednarodna skupnost do danes nima ne pravnega ne institucionalnega orodja, ki bi sankcioniralo zlorabe (Held 2003). Iz tega lahko izpeljemo dve ugotovitvi:

I. za državljane, ki jim je človekove pravice varovala moderna država z varovanjem pravic državljana, je danes ta privilegij odpravljen. Na mnogih področjih (zdravje, socialna država, dostojanstvo človekovega življenja) je ta naloga prešla na področje človekovih pravic – le da o tem še ni razvito polno družbeno zavedanje, pa tudi politična kultura, ki bi vodila k javni razpravi, komajda obstaja;

II. človekove pravice so nedelujoči mehanizem globalne pravičnosti za ljudi, ki naj bi jih prvenstveno ščitile: migrante, azilante, *sans papiers*. Njihovi realizaciji stoji na poti nacionalna država, torej prav tista zgodovinsko konstituirana politična skupnost, ki temelji na globalni mobilnosti delovne sile in izkoriščanju dejstva njihovega teritorialnega, pravnega, političnega in ekonomskega izključevanja.

Nastajajo pa že novi konflikti, ki bodo dodatno oteževali implementacijo človekovih pravic. Po letu 1970 smo priča dvema procesoma preobražanja družbenega polja nacionalne države, in sicer: (i) oddaljevanje družbe od države: multikulturalizem in transnacionalizem razstavita zgodovinsko dediščino procesov nacionaliziranja in homogeniziranja družbe devetnajstega stoletja in, kot že omenjeno, odpravita hegemonijo etno-nacionalne identitete; (ii) oddaljevanje članstva od teritorija: migranti, gastarbajterji in vse druge družbene skupine, ki sodelujejo v poznokapitalistični globalni multiplikaciji trga dela, postanejo ključna izkoriščana delovna sila, ki jo nacionalna država izrablja za potrebe skrbstvene ekonomije (socialne države) in produkcijo življenja lastnih nacionalnih teles.

Specifika novega tisočletja je postnacionalna država, ki deluje na principu prekarnosti. Prekarnost tujcev se izraža v obliki pogojne in začasne mobilizacije za potrebe trga, ki primarno oskrbuje drugo skupino prekarnih, to je državljanov. Prekarnost državljanov (v pomenu modernih subjektov nacionalne države) v postnacionalni neoliberalni fazi kapitalizma deluje na principu samovladanja. Izkoriščanje prekarnosti prvih je pogoj njihove lastne uspešnosti in napredovanja, iz česar sledi še, tretjič:

III. moderna populacijska biopolitika, ki je temeljila na keynesianski rekrutaciji nacionalnih subjektov v razred državljanov in potrošnikov, je prešla v fazo neoliberalne biopolitike, ki združuje dve obliki prekarnosti: prekarnosti neoliberalnega subjekta državljana in prekarnost migranta. Dve modalnosti prekarnosti si stojita v konfliktu, ki ga s tehnikami represivnega vladanja (nadzor meja in kriminalizacija migrantov) vzdržuje država.

## 6. Sklep

Kaj vse zgoraj naštetu pomeni za prihodnost temeljnih principov državljanstva? In kako se s preobrazbo modernega instituta državljanstva preobraža globalna politika človekovih pravic?

Po Habermasu so človekove pravice (kot etična paradigma in politika sankcioniranja) odgovor na specifične zlorabe človekovega dostojanstva; so rezultat progresivnega razvoja moralnega vira za določitev okvirov dostojanstva, ki izhajajo iz epizod kršitev in političnega nasilja. Prva deklaracija človekovih pravic je, kot navaja Habermas (2012, 95), postavila standard, ki "navdihuje begunce,

ljudi, ki so bili pahnjeni v bedo, in vse, ki so bili preganjani in ponižani, standard, ki jim zagotavlja, da njihovo trpljenje ni naravna usoda". Človekove pravice so realistična utopija: ne obljublja socialne utopije splošne sreče, temveč ideal pravične družbe tvorijo v same institucije ustavnih demokracij (Habermas 2012, 95). V tem se Habermas približa Douzinasu (2014), ki pojasnjuje, da človekove pravice niso le moralno stališče, biti morajo operativen koncept. To pa pomeni izris novega modela demokracije, ki mora, če smo kantovsko dosledni, univerzalnost človekovih pravic postaviti pred parcialnost nacionalnih institutov državljanstva.

Razprav, ki potekajo na temo prihodnje podobe demokracije, je nešteto. Kot ocenjuje Pateman (2011), takšnemu razmahu razprav, kot ga beležimo v zadnjih dveh desetletjih, doslej še nismo bili priča. Modeli, ki jih ponujajo razprave, vključujejo kozmopolitsko, agonistično, republikansko, deliberativno (razpravljavsko) demokracijo. A razmah razprav ne rezultira v bolj demokratičnem svetu, niti v manj kontroverznem razumevanju demokratičnega državljanstva. Prav nasprotno, govora je o krizi (demokratičnih) vrednot in zatonu demokracije. Pateman presoja, da je demokratični načrt, ki bi za izhodišče imel človekove pravice, priložnost za razvoj, na katerega lahko, četudi do sedaj ni bil realiziran, še naprej upamo.

Torej smo primorani k utopičnemu čakanju in pričakovanju. Vmes lahko opravimo nekaj interpretativnih popravkov. Formalne pravice po Douzinasu (pozitivni zakon po Habermasu!) molčijo o pogojih svojih uveljavitev: " 'pravica do dela' se ne nanaša na obstoječo upravičenost, pomeni politično zahtevo zanj" (Douzinas 2014). V tem smislu sta politika pravic in njen pravni status vselej v potencialnem konfliktu. Dvoumnost pravne in moralne retorike pomeni prednost za oblast; lahko pa z utopičnem delovanjem prek političnega boja postane tudi orodje upora tej oblasti.

Če sklenemo z obema avtorjema hkrati: človekove pravice so najprej utopija političnega in šele nato pravnega in moralnega boja. Pravo deluje v omejenem prostoru lastne zgodovine, tudi ko komunicira z družbenozgodovinskim okoljem svojega artikuliranja; moralo so neoliberalni akterji vrednot pretvorili v svetovno podjetje humanitarizma in dobroteljnosti. Ostane politično, oblast, torej tretja izmed opredelitev po Stanfordski enciklopediji, ki se prekriva z obema, pravnim in moralnim. Če jo razumemo v foucaultovskem smislu, je to mesto, kjer se politični subjekt v iskanju alternativ pravičnosti, kot kažejo družbeni pozivi k transnacionalni solidarnosti, obema izmika v avtonomno polje upornega delovanja in državljskih zahtev.

To je kraj nastajanja utopije zakona, ki bo morda nekoč, po koncu transnacionalne države, lahko služilo tudi kot temelj nove morale.

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## Opombe

- <sup>1</sup> Nedržavljanstvo se v tem prispevku uporablja kot sinonim za vse oblike suspendiranega državljanstva, najsi bo to prehodno in posamično, kot na primer pri prosilcih za azil in migrantih, ali permanentno in kolektivno, kot na primer v primeru Palestincev, katerih čakanje na državljanstvo traja blizu sedemdeset let. Da je najpogostejša oblika danes usidrana nekje vmes med obema, mnogi povezujejo z vzponom novodobnega rasizma.
- <sup>2</sup> Ta pa se seveda spreminja s konkretno državo: nemško ustavno sodišče je v sodbi leta 2010 prvi člen nemške ustave uporabilo za določitev varščin v socialni zakonodaji, ki upravičencu in njegovim otrokom med nadomestila za brezposelnost štejejo z ustavo določeno participacijo v socialnem, kulturnem in političnem življenju (Habermas 2012, 77).



Lucius Caflisch

## Minority Issues: How The European Court of Human Rights Has Dealt with Roma and Travellers' Claims

This paper retraces the origins and the development of international minority protection by the League of Nations and the United Nations. It describes local and regional mechanisms of protection, such as that established by the European Human Rights Convention. It also shows how the European Court of Human Rights has protected Roma and Travellers in different areas, such as the prohibition of torture, the treatment of asylum seekers and beggars, the protection of property, the right to education and the exercise of political rights. Minority-specific treaties and mechanisms may improve the situation of minority groups, while human rights mechanisms will protect the rights of their individual members.

**Keywords:** freedom of association, right to education, European Convention on Human Rights, Helsinki Conference, Final Act, League of Nations, right to life, protection of minorities, political rights.

### Manjšinska vprašanja: kako je Evropsko sodišče za človekove pravice obravnavalo nekatere zahteve Romov in Popotnikov

*Članek obravnava nastanek in razvoj mednarodne zaščite manjšin v povezavi z Društvom narodov in Združenimi narodi. Opisuje lokalne in regionalne mehanizme zaščite, kakršen je npr. mehanizem v okviru Evropske konvencije za človekove pravice. Dodaja tudi, da je Evropsko sodišče za človekove pravice Rome in Popotnike zaščitilo v številnih pogledih, tako glede prepovedi mučenja, obravnave prosilcev za azil in beračev, kot glede zaščite lastnine, pravice do izobraževanja in uresničevanja političnih pravic. Specifične manjšinske pogodbe in mehanizmi bodo morda izboljšali položaj manjšinskih skupnosti, mehanizmi človekovih pravic pa bodo zaščitili pravice njihovih individualnih pripadnikov.*

**Ključne besede:** pravica do združevanja, pravica do izobraževanja, Evropska konvencija za človekove pravice, Helsinška konferenca, Društvo narodov, pravica do življenja, zaščita manjšin, politične pravice.

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## 1. Introduction

The present contribution<sup>1</sup> is divided into three parts. The first deals with the way in which minority issues have been approached: by concluding minority treaties, on the one hand, and by eliminating discrimination between the individuals belonging to the majority of the population and those forming part of a minority (Chapter two). The next part shows, by using a series of examples, how the European Court of Human Rights (ECtHR or Strasbourg Court) has dealt with applications by Roma and Travellers (Chapter three). In the last part some conclusions are drawn (Chapter four).

## 2. The Evolution of International Minority Protection

### 2.1 Definitional Problems

What is a minority? This is a difficult question. The answer given by Francesco Capotorti (1977, 96, 1991, 98)<sup>2</sup> in the framework of Article 27 of the Second UN Covenant on Civil and Political Rights (ICCPR) is helpful:

A group numerically inferior to the rest of the population of a State, in a non-dominant position, whose members – being nationals of the State – possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their cultures, traditions, religion or language (Council of Europe 2007, 33).

This definition, though lengthy, may appear incomplete. Are there minorities other than ethnic, cultural, religious or linguistic ones? Should their members enjoy the same kind and degree of protection as the majority of the population? What precisely is meant by national minorities? Do groups such as the Roma and the Travellers belong to a single or several of these categories, or do they exhibit special features such as a non-sedentary character? A further issue is whether, to achieve minority status, members of a group must be nationals of the State concerned and whether a group of persons can aspire to minority status if their presence in that State is of recent origin (Capotorti 1997, 411, Henrard 2013, 10). A further – and unanswered – question is that of the number of individuals needed to qualify a group as a minority. Finally, what if a State hosts several minorities: can and should they all claim the same status? And what if the sum of a State's minorities forms a majority of that State's population?



## 2.2 Minority Status and Regimes

### 2.2.1 League of Nations

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While treaty rules endeavoured, from the 17<sup>th</sup> century onward, to protect religious minorities, conventional protection systems burgeoned in the wake of the First World War and on account of the territorial changes that resulted from it. This was the case in relation to Poland, Czechoslovakia, Yugoslavia, Romania and Greece (Capotorti 1997, 411), all of which concluded minority treaties with the Principal Allied and Associated Powers. In their peace treaties, Austria, Bulgaria, Hungary and Turkey assumed similar obligations, while the Polish minority in the City of Danzig was protected by a treaty between Poland and that City,<sup>3</sup> the Swedish-speaking population of the Åland Island by an agreement between Sweden and Finland;<sup>4</sup> and the status of the Memel Territory was governed by a 1924 convention between the Allied and Associated Powers and Lithuania.<sup>5</sup> Several declarations on minority protection were made by States when joining the League of Nations and acknowledged by the Council of the League (Capotorti 1997, 412).

These instruments made the following points: (i) all inhabitants of the State were entitled to see their life and liberty protected, without discrimination, and to espouse, in private or in public, any creed, religion or belief; (ii) all of the State's nationals were to be equal before the law and to enjoy equal access to public employment, professions and industries; (iii) there was to be freedom to use any language in private relations, commerce, religious matters, the press or public relations or meetings. Moreover, (iv) the right to use minority languages in court was guaranteed, as it was in religious, charitable, social and educational minority institutions; and (v) so was the right to receive basic instruction in such a language (Capotorti 1997, 412). This summary description suggests that, to preserve minorities, they and their members were granted some privileges under international law. Accordingly they enjoyed rights the majority did not have.

The regimes thus established were guaranteed on the domestic and international levels: on the former by making sure that they could not be cancelled by ordinary laws, on the latter by making changes dependent on majority decisions taken by the League of Nations Council. Violations could be brought to the Council's attention by a member State for appropriate action to be taken. If a dispute was to arise between a member State and another member State bound by a minority regime, it could be taken by either State to the Permanent Court of International Justice.

Individuals or associations could also petition the League Council on behalf of minority groups. Petitions were to be examined by committees of three Council members. By 1923, the conditions for the admissibility of such petitions were determined. If a petition was considered admissible, this could trigger negotiations between the competent committee and the State concerned or

submission of the matter to the Council, which could make recommendations of settlement. Another important actor in this field was the League's Minority Section whose role it was to monitor the respect of rules on minorities by collecting information and despatching missions to minority areas (Capotorti 1997, 412–413).

### 2.2.2 United Nations

At the end of the Second World War, many conventional minority regimes disappeared<sup>6</sup> and were replaced by the then modern idea of emphasising the protection of the human rights of individuals set forth in Article 1.3 of the UN Charter and in Article 2.1 of the 1948 Universal Declaration of Human Rights (UDHR), more specifically the idea that equality of treatment should be extended to all, including the members of ethnic, religious and linguistic minorities. This idea was echoed, in 1966, by the previously cited Article 27 of the UN Covenant on Civil and Political Rights, the main features of which are: (i) that, although it has cultural and historical connotations, the term ethnic ought to be considered as covering national and racial origins; (ii) that the rights in question belong and may be claimed, not by the groups as such, but by the individuals composing them; and (iii) that the States concerned will not get away with simply not curtailing minorities' freedoms in cultural, linguistic and religious matters, but are duty-bound to take concrete measures to promote these freedoms by actively intervening at least in situations where the groups' identity cannot survive without them. There are no rules, however, on the grant of political or administrative autonomy; hence States are free to deal with these matters as they wish but within the bounds of the principle of self-determination (Capotorti 1997, 414–416).<sup>7</sup>

Article 27 of the ICCPR lacks precision, however, as the rights of individual members of minorities are not sufficiently specified. This matter could or should be addressed by a declaration to be made by the UN General Assembly and indicating the measures needed to ensure full respect of the rule. To fill the gap, there are now General Assembly Resolution 47/135 of 3 February 1993 and the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities annexed to it. The latter elaborates on some of the rights in question but fails to describe the conditions in which individuals can be considered as belonging to this or that minority. There is also the UN Human Rights Committee's General Comment No. 23 on Article 27 of the ICCPR. That text focusses, however, on the conditions to be met by minority members who complain that their human rights have been infringed: they need not be nationals of their State of residence, nor do they have to be members of traditional minority groups.

### 2.2.3 Regional and Local Regimes

The World's main regional mechanisms<sup>8</sup> know of no provisions similar to Article 27 of the ICCPR, although an attempt was made, in a European context, to devise such rules (Capotorti 1997, 417). Other texts and instruments, elaborated by the Council of Europe, must be mentioned, however: the European Charter for Regional or Minority Languages of 5 November 1992 and the Framework Convention for the Protection of National Minorities of 1 February 1995. The latter establishes a catalogue of principles and rights on national minorities and their members, as well as an implementation mechanism providing for States' reports to be studied by a body of experts – the Advisory Committee – and, subsequently, by the Committee of Ministers. According to its Article 23, that Convention is to be applied in conformity with the provisions of the European Convention on Human Rights (ECHR).

A further text deserving mention is Additional Protocol No. 12 to the ECHR, which flatly prohibits discrimination in general – and not only discrimination practiced in respect of the rights protected by that Convention. This relatively recent Protocol allows the Strasbourg Court to consider the substance of complaints of discrimination because of membership in a minority group.

There is, finally, the Helsinki Final Act of the CSCE (Conference for Security and Cooperation in Europe) of 1 August 1975.<sup>9</sup> Though it was mainly devoted to political and security issues, human rights and humanitarian problems were on the Conference's agenda as well. The CSCE consisted, in 1975, of 35 participating States, including the United States and Canada.<sup>10</sup> This number grew to 56 in 2008, comprising the five Central Asian States. Its attributions were divided into four areas or baskets; the third basket included democratic governance, election monitoring, democratic policing, the rule of law, human rights and humanitarian issues. The last-mentioned issues were to be approached from three angles: politico-security questions; substantive commitments on human and minority rights; and monitoring of the human dimension issues.

Regarding the first angle, the 1975 Helsinki Final Act was completed by the Decalogue – ten principles to ensure the respect of everyone's human rights, including those of persons belonging to minorities. The inclusion of human rights among these principles was a major achievement (Drzewicki 2009, 112), as most references to human rights had hitherto been considered interventions into domestic affairs. The second item of the third basket consisted of a series of human dimension commitments, including provisions on national minorities and regional cultures. There were further meetings of the Conference between 1983 and 1991, the Madrid Follow-up Meeting (1983) and the Copenhagen Conference (1990), followed by the Geneva Meeting of Experts (1991), which produced more than 70 operative paragraphs forming, according to K. Drzewicki, the most complete set of existing rules on national minorities –

although they consisted of political undertakings rather than legal obligations (Drzewicki 2009, 114–115).

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Many meetings followed to confirm these commitments or elements of implementation and, sometimes, to elaborate new or more detailed guidelines for action, witness the rules regarding Roma and Sinti.<sup>11</sup> There also emerged the idea of setting up a new body, the Office of the High Commissioner on National Minorities (HCNM). This idea became a reality in 1992. The new body produced a series of standards, recommendations and guidelines on the treatment of national minorities. It thus contributed to filling the post-war “normative deficit” (Drzewicki 2009, 115) regarding the rights of members of national minorities and also spurred developments in other international fora, such as the conclusion of the 1995 Framework Convention on National Minorities, which turns the OSCE political commitments in this area into legal ones (Drzewicki 2009, 116).

The crowning achievements, however, seem to be the monitoring mechanisms for, on the one hand, verifying compliance with human dimension commitments, and, on the other hand, for specifically monitoring national minority issues, such as the Office of the HCNM.

Regarding compliance with the human dimension provisions, the Human Dimension Mechanism set up in 1989 and perfected in 1991 must be mentioned. As far as the Office of the HCNM is concerned, it was established in 1992 (Drzewicki 2009, 119–121). The High Commissioner is required to provide “early warning” and to take “early action” if, in his/her view, tensions could “develop into a conflict within the OSCE area, affecting peace, stability or relations between participating States, requiring the attention of and action by the Ministerial Council or the Permanent Council” (Drzewicki 2009, 121). Thus, the HCNM’s mission is to identify and, if possible, defuse tensions and to alert the OSCE wherever these tensions cannot be de-escalated with the means at the HCNM’s disposal. The High Commissioner is independent from both the States involved and the OSCE’s Permanent Council, and uses tools of “quiet diplomacy”: negotiations, confidentiality, recommendations and reports to the Chairman-in-Office (Drzewicki 2009, 122). He/she may be requested, however, to provide information on his/her activities at implementation meetings on Human Dimension issues. The High Commissioner is entitled to deal with individual violations of OSCE commitments; his/her actions will often take the form of recommendations addressed to a participating State to amend its minority policy and legislation.

This is a sign of gradual change, in the HCNM’s mandate, from the charge of a firefighter to something more of a medium-term device. Yet another sign is the “permeation effect” (Drzewicki 2009, 128), *i.e.* increased consultation of the practice of the Advisory Committee of the 1995 Framework Convention, and the reverse as well. This enhances the synergy between the HCNM and the Committee, which generates increased preventive effects.

There are, finally, a number of bilateral treaties containing provisions relevant for minority protection. Labelled agreements on cooperation, friendship and good neighbourliness, they have been concluded by States such as Germany, Romania and Poland, in particular. The Treaty on Good Neighbourly Relations and Friendly Cooperation between Germany and Poland of 17 June 1991 may be cited as an example. These agreements, though useful for the international protection of minorities, present potential drawbacks and dangers in that their provisions on minority rights tend to concern sensitive issues and, hence, may have a de-stabilising effect on the relations between the States Parties. For that reason, the multilateral approach should remain dominant (Henrard 2013, 63–66).

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## 2.3 Conclusion

The preceding considerations have identified two methods to improve the fate of minorities and their members. The first consists in elaborating conventional regimes of protection, the second in securing for minority individuals the full scale of human rights granted to the rest of the population, without any discrimination.<sup>12</sup>

At first glance, the two methods seem incompatible. This is not, however, the case. The first method mainly aims at protecting the minority group as such by establishing a regime of positive discrimination in certain areas. The other seeks to secure, for the individual members of the group, the full range of human rights and freedoms extended to others; there shall be no discrimination between individuals of the majority and of the minority. These two approaches are compatible, as they can be used in a complementary way: by eliminating discrimination between members of a given human community, on the one hand, and by extending special protection to minority groups, on the other.<sup>13</sup> Chapter three of this contribution will now explore the first approach, using as an illustration the protection of Roma and Travellers' human rights in Europe.

## 3. Roma and Travellers: An Anthology of Cases

### 3.1 Human Rights Standards: The Prohibition of Discrimination

As has just been pointed out, a basic way for improving the situation of minorities and their members is to make sure that their human rights are protected, on the national and international levels, in the same way and to the same extent as those of the majority of the population. The main strategy, in this context, is to seek to eliminate any difference of treatment between the two categories of individuals, except where such a difference can be justified objectively, *i.e.* by the

presence of certain circumstances, for example the difference, made in public, private and criminal law, between children and adults: children may be treated unlike adults and vice-versa. It is thus essential that the authorities, legislators and courts of law, in particular, vest minority members with the entire range of recognised human rights and freedoms, avoiding any unjustified distinction, and give them full access to the remedies available. And, as the attainment of this postulate cannot be totally guaranteed in any country, there should be control mechanisms available on the universal and/or regional levels.

This postulate is met on the European continent. On the **normative** level, Articles 2 to 18 of the ECHR are relevant, in particular Article 14 which prohibits discrimination on grounds of sex, race, colour, language, religion, opinion, national or social origin, **association with a national minority**, property, birth or other status, when one of the rights secured by the Convention has been allegedly breached.<sup>14</sup> There is now Article 12 of Additional Protocol No. 12 of 4 November 2000 as well,<sup>15</sup> which prohibits discrimination **on any grounds** and not only in situations where rights guaranteed by the Convention or its Protocols are at stake.

On the **procedural** level, Article 34 of the ECHR offers the tool of individual applications, which allows any individual alleging unlawful treatment by the authorities of a State Party to submit his/her grievance to the ECtHR, whose judgments are final and binding.<sup>16</sup>

The system outlined above basically improves the situation of individual members of minority groups wherever their equality with the majority population is an issue. This seems to be the case for the members of gypsy communities and, in particular, for Roma and Travellers, as will become evident when perusing the case-law of the Strasbourg Court.

## 3.2 Case-law Relating to Roma and Travellers<sup>17</sup>

### 3.2.1 Right to Life and Prohibition of Torture and Inhuman or Degrading Treatment

This is one of the main themes in the Court's case-law on Roma and Travellers, and *Sečić v. Croatia* is one of the important cases in that area. The applicant, who was of Roma origin, had been beaten up by two unknown individuals. Soon afterwards, the police arrived on the scene but could not find the attackers. Nothing further was done by the Croatian authorities to identify, arrest and punish the aggressors – as still seems to be the sad reality in many situations involving Roma or Travellers. The ECtHR found a violation of the procedural aspect of Article 3 of the Convention (Prohibition of torture), *i.e.* in the fact that the national authorities had failed to identify, arrest and punish the perpetrators, and a breach of the prohibition of discrimination of Article 14 considered in conjunction with Article 3. The police did suspect that the aggressors belonged

to a group of skinheads moved by an extremist and racist ideology; they were thus aware that the aggression had a racist background and should not have allowed the investigation to drag on for more than seven years without any serious steps taken to identify and prosecute the individuals concerned.

*Angelova and Iliev v. Bulgaria* falls into the same category. The applicants, mother and son, had complained about the racially-motivated killing of their son, respectively brother, by a gang of teenagers and the failure of the Bulgarian authorities to investigate the crime and to punish its authors, thereby violating their duty to react to racially-motivated crimes. In so doing, the Court noted the widespread prejudice and violence against Roma during the period in question and stressed the necessity to combat racial violence and protect Roma from attacks. It found that the Bulgarian authorities had neglected to draw the necessary distinction between the present case and other, not racially motivated offences. This led it to conclude that there had been a violation of Article 2 and a breach of that provision read in conjunction with Article 14.

Another case to be mentioned under this sub-heading is that of *Škorjanec v. Croatia*. The applicant complained that two men had heaped racial abuse on her partner because of his Roma origin. The men then had attacked him and her. The assailants were later prosecuted and convicted on charges including a hate crime against her partner but not against herself, as she was not of Roma origin. The applicant also complained of the lack of an effective procedural response to a racially motivated act of violence directed against her.

The ECtHR found that there had been a breach of Article 3 of the Convention in its procedural aspect, combined with Article 14, on account of the Croatian authorities' refusal to investigate the applicant's criminal complaint. In so doing – and this is the special feature of the case –, it pointed out that a person may be the victim of a hate crime not only because she herself exhibits a certain characteristic, but also when she is being attacked because of her actual or presumed association with a person who has that characteristic. This extension of the Convention's area of protection appears justified.

The recent case of *Randelović and Others v. Montenegro* related to a complaint by one of the applicants that the Montenegrin authorities had failed to undertake a prompt and effective inquiry into the disappearance of the applicant's family members, a group of Roma who had, on the Montenegrin coasts, boarded a boat headed for Italy. The boat sank in August 1999. According to the Court, the authorities of Montenegro had breached Article 2 (Right to life) of the Convention in its procedural aspect: the criminal proceedings had lasted for more than 17 years after the impugned event and ten years after the issuance of a new indictment in 2006. The Court stressed that the passage of time inevitably affected the amount and quality of the evidence available and that the appearance of a lack of diligence on the part of the authorities cast doubt on the latter's good faith. Accordingly the delays in question were incompatible with the State's obligations under the procedural angle of Article 2.

Other, similar cases – reluctance on the part of the national authorities to investigate and prosecute the authors of crimes of violence or abuse against members of minorities – may be mentioned.<sup>18</sup> Their characteristics were: (i) that the authors of the crimes were individuals; (ii) that their crimes were racially motivated; and (iii) that the domestic authorities, closing their eyes, did little to sanction them. This seems to suggest that while crimes must in general be punished, this is not so for hate crimes. In other words, there was a sort of passive complicity between the domestic authorities and the authors of the crimes.

### 3.2.2 Attacks on Roma Dwellings

The case of *Moldovan and Others v. Romania (No. 2)* involved three Roma men who had been aggressed by a crowd of non-Roma villagers, with the apparent collusion of the local police; one of them was burnt alive while the two others were beaten to death. Homes were destroyed, some of them completely, and the applicants were then forced to move to crowded and unsuitable quarters (cellars, stables, hen-houses).

The main obstacle to the examination of these complaints by the Strasbourg Court was the fact that the events in question had occurred before Romania had ratified the ECHR and, thereby, accepted the Court's jurisdiction. The Court, however, found that there were complaints about applicants' subsequent living conditions. It also noted that the ethnic origin of the victims had been a decisive factor for the excessive length of the domestic proceedings. This enabled the ECtHR to find violations of Articles 3 (Prohibition of torture), 8 (Respect for private and family life and home), 6.1 (Fair trial) and 14 (Prohibition of discrimination) read together with Articles 6.1 and 8.<sup>19</sup>

*Gergely v. Romania and Kalanyos and Others v. Romania* seem to be routine instances of the burning of Roma houses by villagers and of the failure of domestic authorities to prevent the attacks and to conduct a proper investigation, thus depriving the applicants of the possibility of bringing civil actions to establish responsibility and collect damages. Their common characteristic was that the Romanian Government recognised the infringement of Articles 3, 6, 8, 13 (Right to an effective remedy) and 14, undertook to compensate each applicant and agreed to take a series of general measures better to integrate the Roma into the population-at-large.

The case of *Bagdonavicius and Others v. Russia* arose out of the demolition of Roma houses and the eviction of their occupants. The latter argued, before the ECtHR, that these measures were in breach of Article 8 of the Convention and of Article 1 of Additional Protocol No. 1 (Protection of property); they further complained that the interviews some of them had with the police prevented them from exercising their right of individual application (Article 34 of the ECHR).



The Court found that there had indeed been a breach of Article 8 in that the applicants did not, in the proceedings related to the demolition of their houses, benefit from an examination of the proportionality of the interference; nor did the authorities offer them genuine consultations on re-housing. It rejected the grievance based on Article 1 of Additional Protocol No. 1, however, as it found that the applicants' property interests were not sufficiently weighty to constitute a substantive interest within the meaning of that term. It also rejected the grievance relating to Article 34 of the Convention. These conclusions are neither particularly surprising nor preoccupying. What appears strange is that it took the Court a full ten years to dispose of the case.

### 3.2.3 Police Brutality and Death in Police Custody

*Nachova and Others v. Bulgaria*, decided by the Court's Grand Chamber, is a leading case in the field examined by the present study.<sup>20</sup> It arose out of the killing by military police, without there being any pressing need, of two of the applicants' relatives. The two victims were of Roma origin. They had deserted from the Army and were killed on their flight by a policeman. The applicants claimed that prejudice against Roma people was at the root of events. The Grand Chamber ruled that there had indeed been a violation of the right to life (Article 2) both because of the deaths caused by a policeman as a result of over-permissive legislation and because of the lack of an effective investigation. But the Chamber added, prudently, that there was insufficient evidence for a racially motivated killing; it did, however, conclude that there had been a violation under Article 14 (Prohibition of discrimination) combined with a breach of Article 2 in its procedural aspect (lack of a proper investigation).

*Stoica v. Romania* relates to yet another occurrence of police brutality. In a clash between the police and a group of Roma at the entrance to a bar, the applicant, a fourteen-year old Roma boy of Romanian nationality, was beat up by a policeman despite a warning that he had recently undergone head surgery. The applicant complained that he had been mistreated by the police and that the decision not to prosecute the policeman was due to racial prejudice.

The Court concluded that there had been both a substantive and a procedural violation of Article 3 (Prohibition of torture) of the ECHR. It also held that there had been a breach of Article 14 of the Convention, read together with Article 3, as neither the prosecutor in charge nor the Romanian Government could show that the incident or its consequences were not racially motivated, the evidence pointing in the opposite direction. That may well be; but the case is special in that the Court seems to have asked the Government to prove the absence of racial bias (Paragraph 124). This is curious since it would seem that, as a matter of principle, it was up to the applicant to prove such bias.

The same issue arose in *Anguelova v. Bulgaria*. The applicant alleged that her son, aged seventeen, had been arrested and placed in custody for attempted theft. She complained that he died after ill-treatment by the police, arguing that the authorities had failed to provide adequate medical treatment, that no effective investigation had been undertaken, that her son's detention was unlawful, that there had been no effective remedy, and that there had been discrimination on account of her son's Roma origin.

According to the ECtHR, Article 2 had been breached as a result of the death of the applicant's son, of the authorities' failure to provide adequate medical care and of their duty to carry out an effective investigation. The Court also found violations of Articles 5 (Right to liberty and security) and 13 (Right to an effective remedy). It did not, however, see any breach of Article 14: while the arguments regarding bias on the part of the authorities were serious, the Court felt unable to conclude that there was proof of racial bias beyond reasonable doubt (Judgment, Paragraph 168). This seems to be the correct approach to the issue of the burden of proof in matters of discrimination, despite what the ECtHR asserted later on in the *Stoica* case. But it is clear that the correct way of establishing bias is also the harder one, for the applicant may find it difficult to collect the necessary evidence.

*Ognyanova and Choban v. Bulgaria* concerned a young man of Roma origin who was suspected of having participated in numerous thefts and burglaries and had been taken into custody. While being interviewed, he fell from a third-floor window of the police station. He was taken to hospital and died the next day. The applicants, his *de facto* wife and his mother, contended that the young man had died because of ill-treatment while in custody – did he jump out of the window or was he pushed? – and that there had been no effective investigation into the circumstances of his death. They also argued that the events in question were the result of a discriminatory attitude towards Roma.

The Strasbourg Court saw a violation of Article 2 in the fact that the Government had not fully accounted for the young man's injuries and death, and also in the absence of an effective investigation. It further held that there had been breaches of Articles 3 and 5, and of Article 13. There had been no discrimination, according to the Court, as there were no concrete indications thereof in the case-file. The Court may well have been right on this point but one does wonder how and why the individual fell from the third-floor window of the police station.

*Adam v. Slovakia* concerned a complaint by a young Roma who had been slapped in the face when being interrogated by the police about a mugging. A further complaint was that the investigation into that incident was insufficient. For the Court, there was no violation of Article 3. It was plausible, as argued by the respondent State, that the applicant's injury – a swollen cheek – could have resulted from the applicant's resistance to arrest. The ECtHR did, however, find

a breach of the procedural limb of that Article: the authorities seemed to have shifted the burden of proof in the matter to the applicant and to have neglected various measures (questioning of witnesses, confrontation of the applicant with his interrogators, interrogation of the doctor who had treated him). Thus, the respondent State's authorities had not done what could have been reasonably expected from them, bearing in mind the sensitive situation of the Roma in Slovakia.

### 3.2.4 Death Resulting from Inadequate Care

A recent case dealt with by the Court's Grand Chamber is that of *Center of Legal Resources on Behalf of Valentin Câmpeanu v. Romania*. Câmpeanu, a young HIV-infected man of Roma origin suffering from a severe mental handicap, had been placed in a psychiatric hospital which, however, did not take proper care of him and was not equipped to do so. The patient died and his case was taken to the Strasbourg Court by a non-governmental organisation. To be admissible, applications must normally be made by the victims of alleged violations or their families rather than by entities acting on their behalf, except where it is the entity itself which is the victim of the violations complained of.<sup>21</sup> In the exceptional circumstances of the present case, the application was, however, found admissible by the Court because Câmpeanu was incapable of acting for himself (Judgment, Paragraph 108), because the respondent State had not questioned the Centre's activity on Câmpeanu's behalf on the domestic level (Paragraphs 109 to 110) and because Câmpeanu had no next of kin who could have acted (Paragraph 111).

Having thus recognised the admissibility of the application, the Grand Chamber found breaches of Article 2 (Right to life) in both its substantive and procedural (no effective investigation) aspects, and of Article 13 (Right to an effective remedy) because there were no opportunities for complaining under Romanian law. It did not, however, see any violation of Article 14 (Prohibition of discrimination): the young man's demise was death by neglect rather than by hate-inspired inaction.

### 3.2.5 Forced Sterilisation

The forced sterilisation cases, shrouded in lies and deceit, form a particularly dark chapter among the cases examined in this contribution.

*V.C. v. Slovakia* is one of them. After the birth of her second child, the applicant, a Slovak woman of Roma origin, was sterilised without her full and informed consent, and after having been told that if she were to have a third child, she or the child would die. Upon her sterilisation, she was ostracised by the Roma community, and her induced infertility allegedly was a reason for the separation from her husband. The Court found the sterilisation to be in violation

of Article 8 (Right to respect for private and family life). One will note that in this case, the behaviour of the Roma community was a factor contributing to the applicant's sufferings. Moreover, there always is, in cases such as the present one, a pressing suspicion that the sterilisations carried out are racially motivated.

*N.B. v. Slovakia* is another one of these unfortunate cases. The applicant, a Roma woman, contended that she had been sterilised in a public hospital without her full and informed consent. The Court concluded that her sterilisation violated both Articles 3 (Prohibition of torture) and 8, but also found that the investigation into the sterilisation had not been inadequate.

### 3.2.6 Treatment of Asylum Seekers and Expulsion

The case of *V. M. v. Belgium* related to the admission to Belgium of a Serb family of Roma origin. Its object was a Belgian expulsion order by which the family was deprived of all means of subsistence and forced to return to where it had come from. Subsequently the family's handicapped daughter passed away.

The ECtHR found a breach of Article 3 (Prohibition of torture), mainly due to the fact that the Belgian authorities had neglected to consider the vulnerability of the applicants and their two small children, who were deprived of the most basic means of existence. It also concluded that there was a violation of Article 13 (Right to an effective remedy), but was unable to find a breach of Article 2 (Right to life) because it could not be established that the handicapped child died as a consequence of the family's situation in Belgium.

*Čonka v. Belgium* was about the collective expulsion of a Slovak Roma family. The applicants contended that they had fled their country on account of racist aggressions. They were arrested at a meeting with the Belgian authorities which had incited them to come and fill out a form explaining their request for asylum.

The Court held that Belgium had violated Articles 5 (Right to liberty and security) and 13 of the Convention, but the main point made by it was that there had been a breach of Article 4 of Additional Protocol No. 4 of 16 September 1963, which prohibits the collective expulsion of aliens.

### 3.2.7 Way of Life, Forced Evictions, Alternative Accommodation

This matter is one in which the Strasbourg Court had, for some time, been hesitant to find breaches of the ECHR. In *Buckley v. United Kingdom*, the applicant had complained about being prevented from living, with her family, in a caravan on her own land and also from leading a travellers' life. The Court detected no violation of Article 8 (Right to respect for private and family life) in conjunction with Article 14 (Prohibition of discrimination); the British authorities had given

sufficient reasons for justifying their decisions, namely, that the latter had been taken as measures to promote highway safety, to preserve the environment, and to protect public health.

Chapman and Others v. United Kingdom related to another complaint about steps taken to enforce measures against the applicants' occupation of their own land by caravans. For similar reasons, the Court refused to find violations of Article 8 and of that provision in combination with Article 14.

The case of Connors v. United Kingdom concerned the eviction of the applicant and his family from a camping site on which they had been living for thirteen years. The eviction was justified by alleging that the applicants had misbehaved and caused considerable nuisance at the site. According to the Strasbourg Court, the applicant's eviction amounted to a violation of Article 8 of the ECHR, as no sufficient explanation for the measure taken was being offered. In so holding, it commented that gypsy communities were particularly vulnerable and that special attention had to be paid to their needs and lifestyle.

The case of Winterstein v. France pertained to the eviction of a number of traveller families who had been living in the same site for many years. The French courts issued evacuation orders contained a menace of penalties for non-compliance. These orders were not enforced, but under the threat of sanctions many families moved out all the same. Some of them but not all were offered social housing. The applicants complained, *inter alia*, that the evacuation orders were in breach of Article 8 of the Convention. According to the ECtHR, there was indeed a violation of that Article: the national authorities – despite the lack of urgency and the absence of nuisances, and regardless of the lengthy period for which the applicants had remained on the site, the municipal authorities' toleration of that situation, the right to housing, and Articles 3 (Prohibition of torture) and 8 of the ECH – had decided to act. They had disregarded the fact that the applicants belonged to a vulnerable minority and that respect had to be paid to their needs and their way of life when it became necessary to end unlawful occupations of land and to devise alternative solutions.

The case of Achim v. Romania concerned the temporary placement of the applicants' seven children due to the fact that the parents, Romanian Roma, had neglected their parental duties. Invoking Article 8 of the Convention, the applicants argued that the measure was unjustified and that the domestic Court of Appeal should not have dismissed their request for the return of the children. The parents' application was rejected by the ECHR which found that the children's placement was decided in their interest and that the authorities had endeavoured to balance that interest with the rights of applicants. The decisions of the domestic courts had been based not only on the parents' difficult material situation but also on their neglect of the children's state of health and of their educational and social development. The authorities had adopted a constructive attitude, advising the parents on how they could improve their financial situation

and parental skills; and they had taken the action necessary to facilitate the children's return to their parents as soon as the later would adopt a cooperative attitude and improve their situation.

In *Barnea and Caldararu v. Italy* the issue was the removal of a 28-month old baby girl from her Romanian family who had moved to Italy in 2007 and settled in a Rome camp. This measure was to last for seven years; its long-term objective was the placement of the child in a foster family with a view to adoption. In 2009 the family complained about the girl's removal and her placement, the failure of the social services to establish a programme for the gradual return of the child to her family, her placement in a foster family and the reduction of meetings with her. The Court ruled that there had been a violation of Article 8 of the Convention because the reasons invoked by Italian authorities for refusing to return the child to her parents had nothing very exceptional; in addition, the said authorities had not complied with a court decision providing for the girl's return to family, and her return had been prevented by the authorities' inertia in setting up a programme for reuniting the family.

### 3.2.8 Begging Activities

The begging activities of members of Roma communities – foreign or domestic – are a preoccupation of some segments of European society. In the Swiss Canton of Geneva this preoccupation led to the adoption of a blanket prohibition on begging,<sup>22</sup> an activity exercised chiefly by foreign families and groups – Roma and Travellers – spending the more clement time of the year in Geneva. Their presence explains why the new legislation, while applicable to all beggars, essentially affects Roma and Travellers. The case of *Lăcătuș v. Switzerland*,<sup>23</sup> which bears on the issue, is still pending before the Strasbourg Court, and the applicant, who was fined for begging, bases her complaint on alleged breaches of Articles 8 (Right to respect for private and family life), 10 (Freedom of expression)<sup>24</sup> and 14 (Prohibition of discrimination) of the ECHR.

### 3.2.9 Protection of Property

An interesting case – *Muñas Días v. Spain* – arose in connexion with Article 1 of Additional Protocol No. 1 to the Convention,<sup>25</sup> which protects private property. The case concerned two Spanish nationals of the Roma community who had married in 1971 according to the rites of that community. After the death of the husband in 2002, his widow asked for a survivor's pension. Her request was denied by the Spanish authorities because in their view the applicant's marriage had no civil effect in their country. The Court rejected the respondent State's argument by pointing out that that State had supplied the applicant and her family with health care coverage and had collected social security contributions from her husband for more than nineteen years. To refuse to recognise her

marriage now, when she claimed a survivor's pension, amounted to a violation of Article 1 of Additional Protocol No. 1 and of that provision read together with Article 14 (Prohibition of discrimination). One may have doubts about the Court's verdict, however. While it is undoubtedly true that the respondent State's conduct had been contradictory – recognising the applicant's marriage when claiming social security payments but refusing to do so when it came to serving a survivor's pension –, it is less evident why a State whose laws prescribe civil marriage should have to recognise particular marriage rites even after a long period of time. What remains, of course, is that to demand the payment of contributions and to refuse subsequently to pay a pension is an act of bad faith.

### 3.2.10 Right to Education

Article 2 of Additional Protocol No. 1 prescribes that no one shall be denied the right to education and teaching, and that “the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions” (Protocol No. 1, Art. 2).

The case of *D. H. and Others v. Czech Republic* examined by the Court's Grand Chamber involved 18 Czech Roma children who were placed in schools for children with special needs, including those with a mental or social handicap – a thoroughly racist measure as it suggests that all Roma children are mentally retarded or social misfits. The Grand Chamber found that the impugned measure had a discriminatory effect on Roma children and breached Article 2 of Additional Protocol No. 1 combined with Article 14 (Prohibition of discrimination) of the ECHR.

The second case – *Oršuš v. Croatia* – was brought before the Court's Grand Chamber as well. It concerned 15 Croatian Roma who had allegedly been discriminated against during their school years by being segregated into classes for Roma only and had, thereby, suffered educational, psychological and emotional damage.

The respondent State contended that this measure had been necessary given the children's lack of command of the Croatian language. The Grand Chamber observed, however, that the tests leading to the placement in such classes were not focussed on language skills, nor was the educational programme centred on linguistic proficiency; furthermore the children's progress in this area was not specifically verified (Paragraph 159). The placement of the applicants in Roma-only classes was unjustified, therefore, and the Grand Chamber found a violation of Article 14 of the Convention viewed in conjunction with Article 2 of Additional Protocol No. 1.

The case of *Sampani and Others v. Greece* related to Roma parents' complaints that the Greek authorities had failed to provide schooling for their children and had subsequently placed them in special classes, allegedly on account of their origin. In a first judgment, the ECtHR determined that the children

in question had not been appropriately tested either before their placement in special classes or at later stages. This, according to the Court, resulted in a violation of Article 14 of the Convention combined with Article 2 of Additional Protocol No. 1 to the Convention.

In *Sampanis and Others v. Greece*, another case relating to primary education, 140 Greek nationals from 38 families of Roma origin – children and parents, some of whom had been applicants in the preceding case – complained about the the education given to the children. The Court, again, found a breach of Article 14 in conjunction with Article 2 of Additional Protocol No. 1. It also recommended, in the framework of Article 46 of the ECHR, that the applicants who were still of school age be enrolled in another public school and that those who had reached the age of majority be admitted to second-chance schools or institutions of adult education established by the Ministry of Education.

These cases are special for two reasons: on the one hand for the authorities' apparent refusal to do anything to remedy the situation complained of in the first case and, on the other, for the Court's recommendation, made under Article 46 (Binding force and execution of judgment), on how the situation created by the Government could be remedied.

### 3.2.11 Freedom of Association

In *Vona v. Hungary*, the issue was one of freedom of association (Article 11 of the Convention). The authorities of the respondent State had dissolved an association which had organised anti-Roma rallies and demonstrations.

The Strasbourg Court found that the State had not infringed Article 11 of the Convention (Freedom of assembly and association), as it was entitled to take preventive measures to protect democratic values against associations menacing them. In the present case, a movement created by the applicant association had organised marches carrying a racist message which had had the effect of intimidating the Roma minority. These paramilitary manifestations had gone beyond a mere expression of disturbing or offensive ideas – which is a right protected by the ECHR – on account of the physical presence of organised activists. The only way to cope with the situation, according to the Court, had been to remove the organisational basis furnished by the association.

### 3.2.12 Political Rights

In *Sejdić and Finci v. Bosnia/Herzegovina*, one of the two applicants was of Roma origin while the other was Jewish. Before the Court's Grand Chamber they contended that Bosnian law prevented them from running for the Presidency of the State and for its House of the People (Parliament), respectively. The Court agreed and identified violations of Article 14 of the Convention (Prohibition of discrimination), taken together with Article 3 of Additional Protocol No.



1 (Guarantee of free elections at reasonable intervals and by secret ballot). It considered discriminatory the arrangements made in the Dayton Peace Agreement under which only persons declaring affiliation with Bosnians, Croats or Serbs could be candidates. This may well be so, but one shudders to think of the possibility of an enterprising Slovene, or an ambitious Swiss, presenting his or her candidacy and, after a refusal, complaining to the Strasbourg Court.

## 4. Conclusions

The treaty mechanisms ensuring the survival and preservation of minority groups, which came into being after the First World War, almost vanished in the wake of the Second War, a period characterised by the emergence of international system for the protection of human rights on the universal and regional levels. Traces of the old system have survived, however, and there appear to be signals for a revival of the technique of minority-specific instruments and rules.

It will be recalled that the initial policy – assimilating minority members' human rights to those of the majority of the population – was and is an excellent means for improving the formers' condition. But it may do little to ensure the preservation of minority groups as such. Conversely, minority-specific international treaties and control mechanisms may do much to improve the situation of the groups as such. They establish differences between members of the minority and individuals belonging to the majority but do not necessarily improve the status of the individuals belonging to minority groups.

Thus, at first glance, the two approaches seem incompatible. One aims at granting every individual the full range of human rights and fundamental freedoms; there is to be no discrimination, in principle, between those belonging to the majority and those forming part of minorities. The other, without necessarily improving the situation of the individuals forming part of a minority, serves to enhance the well-being of the minority group as such. These two objectives can, however, be judiciously combined by generally eradicating discrimination between different types of individuals and protecting the identity and the interests of the minority groups to which some of them belong wherever this is possible without gravely prejudicing individuals' human rights.

As for the anthology of case-law presented in Chapter three of this contribution, it may be said that the ECtHR has generally proved sensitive, not only to violations of the rights and freedoms protected by the ECHR and its Protocols but, above and beyond that, to the need for pushing national authorities to investigate, prosecute and punish hate crimes committed against minority members – a need that still exists in some present-day situations. This sensitivity is particularly acute where the Court, as it did in the Winterstein and Adam cases, emphasises the special attention to be paid to members of vulnerable minorities,

their requirements and their lifestyle. This attention is extended by the Court to persons who are not members of a minority but associate with them (*Škorjanec v. Croatia*).

Now and then the claims of minority members are overstated, raising doubts as to their seriousness, and sometimes it even appears – as was the case in *V.C. v. Slovakia* – that the minority communities themselves have contributed to the discrimination against some of its members.

It must also be remembered that the respondent State is not always wrong. The ECtHR is a court of law and not a propagandist for human rights. It has to act with circumspection and cannot assume the existence of facts that are insufficiently established. In several of the cases examined in Chapter three, it had to reject allegations of infringements of provisions of the Convention or of a protocol, read in conjunction with Article 14 on discrimination (*Anguelova, Ognyanova, Câmpeanu, Buckley, Chapman*).

Article 14 is, of course, a key provision for the issues examined in the present contribution. A question that arose is who has to prove discrimination. The problem is a difficult one since bias is largely a state of mind and, thus, difficult to establish. It would nevertheless seem appropriate that if an applicant claims discrimination, he or she should bear the burden of proof. Generally the ECtHR seems to heed this rule, but not always (see the *Stoica* case).

Another point to be made is that minority problems can arise anywhere; they are not confined to the countries of Central and Eastern Europe. Issues pertaining to the human rights of Roma and Travellers have appeared in Western European States (Great Britain, France, Belgium, Italy, Greece and Switzerland), as is shown by the cases described above. They arise in connexion with many of the rights and freedoms secured by the ECHR and its Additional Protocols. The central provision, however, is Article 14 of the Convention on discrimination, as pointed out above.

Finally, it follows from the *Sampani* and *Sampanis* judgments that the Strasbourg Court does not always abstain from dealing with enforcement but occasionally ventures into that field, which is covered by Article 46 of the Convention and is in principle reserved to the Committee of Ministers of the Council of Europe, by recommending measures which might alleviate an existing situation.

Have the activities of the European system of protection of human rights improved the situation of Roma and Travellers? It is obvious that cases continue to be brought, violations established and judgments delivered. It is also evident that the number of cases submitted does not diminish.<sup>26</sup> This means that there remain a substantial number of human rights violations requiring remedial action, but this may actually be a positive sign: it shows that potential applicants disposing of no domestic remedies or having unsuccessfully exhausted them are no longer afraid to claim their human rights and fundamental freedoms on the international level.

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## Notes

- <sup>1</sup> The present study is an enlarged version of a presentation made in Ljubljana on 16 December 2016 at a ceremony to celebrate the 80<sup>th</sup> anniversary of Professor Ernest Petrič.
- <sup>2</sup> See Capotorti (1977, 1991, 1997) and Henrard (2013, 1–16).
- <sup>3</sup> Convention of 9 October 1920.

- <sup>4</sup> Resolution of the League of Nations Council of 24 June 1921, see Schücking and Wehberg (1924), and Agreement between the representatives of Finland and Sweden of 27 June 1921.
- <sup>5</sup> Agreement between Great Britain, France, Italy and Japan, on the one hand, and Lithuania, on the other, of 8 May 1924.
- <sup>6</sup> But not that relating to the Åland archipelago, which remains based on a 1921 decision of the League of Nations Council and on Finnish legislation (1951).
- <sup>7</sup> For the text of these provisions, see Council of Europe (2007, 33, 59).
- <sup>8</sup> Namely, the African Charter on Human and Peoples' Rights of 27 June 1986 (Council of Europe 2007, 595), the American Convention on Human Rights of 22 November 1969 (Council of Europe 2007, 643) and the European Convention on Human Rights of 4 November 1950 (Council of Europe 2007, 309).
- <sup>9</sup> See Helsinki Final Act and also Drzewicki (2009) and Henrard (2013, 49–50). For the evolution of the CSCE in general, see Bloed (1993, 45–115).
- <sup>10</sup> On 6 December 1994, the CSCE became the Organisation for Security and Cooperation in Europe (OSCE) without, however, achieving the status of a full-fledged intergovernmental organisation.
- <sup>11</sup> Documents of Budapest (1994), Lisbon (1996), Istanbul (1999), Maastricht (2003), see Drzewicki (2009, 115).
- <sup>12</sup> On this distinction, see also Henrard (2013, 21–29), and Permanent Court of International Justice, Advisory Opinion of 6 April 1935.
- <sup>13</sup> There are a number of publications presenting historical developments and the practice of minority rights, especially in the European context, as well as the discussion, in recent years, on the rights of minority communities and those belonging to individual members of such communities: Kymlicka (1995), Meijknecht (2001), Pentassuglia (2001), Polzer et al. (2002), Thornberry and Estébanz (2004).
- <sup>14</sup> “A difference of treatment is / ... / discriminatory if it has no objective and reasonable justification; in other words, if it does not pursue a legitimate aim or if there is not a reasonable relationship of proportionality between the means employed and the aim sought to be realised” (Stec and Others v. United Kingdom and the cases cited; Nachova and Others v. Bulgaria).
- <sup>15</sup> See above, p. 75.
- <sup>16</sup> There is also, of course, the possibility for any Contracting Party to “refer to the Court any alleged breach of the provisions of the Convention and the Protocols thereto by any other / ... / Contracting Party” (ECHR, Article 33). So far this opportunity, offered by Article 33 of the Convention, has only been used ten times.
- <sup>17</sup> See also Malinverni (2016); European Court of Human Rights, Roma and Travellers. Factsheet (2017).
- <sup>18</sup> *Beganović v. Croatia, Kotry and Others v. Romania, Seiçova and Others v. Bulgaria, Dimitrova and Others v. Bulgaria, Balázs v. Hungary.*
- <sup>19</sup> A further case was brought concerning difficulties with the execution of the general measures promised by the Government. The application was declared inadmissible by a decision of 15 February 2011, the Court noting, in particular, that it did not have jurisdiction to verify whether a Contracting State had complied with the obligations imposed on it by one of its judgments. *Costică Moldovan and Others v. Romania.*
- <sup>20</sup> Article 30 of the ECHR provides: “Where a case pending before a Chamber raises a serious question affecting the interpretation of the Convention or the Protocols thereto, or where the

resolution of a question before the Chamber might have a result inconsistent with a judgment previously delivered by the Court, the Chamber may, at any time before it has rendered its judgment, relinquish jurisdiction in favour of the Grand Chamber, unless one of the parties to the case objects.”

- <sup>21</sup> The applicant must show, in principle, that he/she is “directly affected” by the measure complained of, see *Burden v. United Kingdom*, Para. 44 [GC]; *Ilhan v. Turkey*, Para. 52. As a rule, the presumed victim must be alive; if he/she is not, the victim status of relatives may be recognised where the complaints made are of a general interest pertaining to the respect of human rights, if they as heirs have a legitimate interest, or on the basis of the direct effect on the applicants’ own rights. *Micallef v. Malta*, Para. 44 to 51 [GC]. The Court does not, however, recognise *locus standi* to anyone simply because the Convention allegedly has been breached. The situation is different under other human rights instruments which allow non-governmental organisations to act on behalf of individuals. See Articles 5.3 and 34.6 of the Protocol to the African Charter on Human and People’s Rights of 10 June 1998 and Article 44 of the American Convention on Human Rights of 22 November 1969.
- <sup>22</sup> See Article 11A of the Geneva Penal Law (2006).
- <sup>23</sup> No. 14065/15, application filed on 17 March 2015 and communicated on 11 February 2016.
- <sup>24</sup> At first glance, the reference to Article 10 of the ECHR appears surprising. The application invokes, however, a decision (G 15510-9) taken on 30 June 2012 by the Austrian Constitutional Court and pertaining to a Salzburg law on territorial security which prohibits begging in public areas. In that decision the Court held that asking for donations in public places, in a discreet and non-aggressive way, was protected by Article 10.1 of the ECHR which guarantees the freedom of expression.
- <sup>25</sup> European Treaty Series, No. 9.
- <sup>26</sup> The factsheet cited in note 17 mentions a series of cases decided between 2014 and 2017.



Robert Knight

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## The Carinthian Slovenes and the Continuities of post-Nazi Carinthia 1945–1958

The article, a revised version of a lecture given at the Institute for Ethnic Studies in Ljubljana, discusses the domestic and international dimensions of minority politics in post-Nazi Carinthia. Based on archival research in Britain, Austria and Slovenia (Yugoslavia) it argues that despite Austria's transition from National Socialist rule to post-war democracy there was evidence of a basic continuity in the stigmatisation (and self-stigmatisation) of the Slovene minority. This continuity largely explains why Carinthian politics moved in an increasingly anti-Slovene direction in the 1950s, leading in 1958 to the demolition of the bilingual school system which had been introduced in 1945. The international dimension, Yugoslavia's territorial claim, the policies of the West and the Cold War are also discussed but the article argues that they were secondary to the dynamics of provincial politics.

**Keywords:** Austria, Carinthian Slovenes, post-Nazi society, minority rights.

## Koroški Slovenci in kontinuiteta postnacistične Koroške med 1945–1958

*Članek oziroma prirejena verzija predavanja, ki sem ga imel na Inštitutu za narodnostna vprašanja, obravnava domače in mednarodne razsežnosti manjšinske politike v postnacistični Koroški. Na osnovi arhivskih raziskav v Veliki Britaniji, Avstriji in Sloveniji (Jugoslaviji) dokazuje, da je v Avstriji, kljub prehodu iz nacionalsocializma v povojno demokracijo, obstajala neka temeljna kontinuiteta stigmatizacije (in samostigmatizacije) slovenske manjšine. S to kontinuiteto si lahko v veliki meri pojasnimo naraščajočo protislovensko usmeritev koroške politike v petdesetih letih prejšnjega stoletja, ki je leta 1958 povzročila odpravo dvojezičnega šolskega sistema, uvedenega leta 1945. Članek omenja tudi mednarodne razsežnosti dogajanja, jugoslovanske ozemeljske zahteve, politiko zahodnih držav in hladno vojno, vendar so bile te po avtorjevem mnenju drugotnega pomena v primerjavi z dinamiko deželneprovincialne politike.*

**Ključne besede:** Avstrija, koroški Slovenci, postnacistična družba, manjšinske pravice.

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## 1. Introduction<sup>1</sup>

At the end of 1957, the Carinthian Slovene leader Joško Tischler looked back twelve years to the start of the system of bilingual primary school education which he had initiated soon after the end of the war. The radical innovation had given Slovene and German equal status for the first three years of education and introduced bilingualism – irrespective of parental views – into over 100 southern Carinthian schools:

What was the basic principle of the bilingual school? Through our own experiences during the Second World War we all, I believe, came to the conviction that many horrors that occurred in our villages were not decided upon or decreed from Berlin, Vienna, and not really from Klagenfurt, but were instead born out of hatred in the village and the parish. Since the ethnic struggle erupted in south Carinthia, the land was divided into two hostile camps. This struggle inflicted serious wounds everywhere. We wanted to heal these old wounds, not only among the old, but also among the young people, that is why with the bilingual school we built a bridge that is meant to tie the countrymen into a fraternal relationship, to offer them the opportunity to get closer to one another, and to enrich each other spiritually in the encounter. We also want our children to be brought up as honest citizens, without them having to renounce their kin in the process. We all have to contribute our share to the common good, which is also after all the precondition for the good of each individual. This common good can be reached only through peaceful coexistence, mutual respect and forgetting the bitter past. May our children be spared the suffering of our fathers! (Tischler 1957a, 1)<sup>2</sup>

Tischler's undertone of regret probably reflected his realisation that the days of his school were numbered. Certainly he was well aware that the pressure from its critics and enemies, which had steadily built up over the previous decade, was now dominating much of Carinthian political discussion.

Less than a year later, the bilingual school system was indeed effectively demolished. In September 1958 Ferdinand Wedenig, Carinthia's governor, issued a decree which allowed parents to withdraw their children from bilingual instruction. The decree spoke of the parents being able to apply for their children's liberation (Ger. *Befreiung*) from bilingual instruction. Yet the outcome triggered by the decree was highly coercive: a campaign of intimidation and pressure was directed at Slovene-speaking parents which resulted in the deregistration of thousands of their children from instruction in the language of their parents.

The following discussion sketches the trajectory of the bilingual school system from its establishment in October 1945. The basic narrative of decline and fall is placed here in two contexts: a primary one of the continuities in attitudes and values between national socialist rule and post-Nazi Austria and a secondary one, of the international and bilateral (Austrian-Yugoslav) politics of the Cold War.

Continuities in post-Nazi society across the hiatus of May 1945 can, at least in principle, be investigated in a variety of ways; for example much could be learnt from the statistical analysis of Nazi party membership, employment, dismissals and post-war career paths – if only reliable statistics were available; individual biographies can also shed important light on longer political and social continuities, as in the important work of Lisa Retzl and Werner Koroschitz (2006) and Lisa Retzl and Peter Pirker (2010) on Carinthia and for West Germany Ulrich Herbert's biography of Werner Best (1996); continuities can also be explored through particular economic or social institutions, in Carinthia, the timber and forestry industry would be one important example.

By contrast, this article focusses on the continuities in political culture. The term is of course notoriously contested but the assumption here is that it is the package of assumptions, values and norms which inform institutions and influence (not determine) political decision-making; in the case of post-war Carinthia that means in particular assumptions about the superiority of German (Ger. *Deutschtum*) over Slav, which may be understood either racially or culturally, or often as a rather fuzzy mixture of both. The underlying issue of continuity is the extent to which these assumptions remained salient after the collapse of National Socialism or became salient again.

Placing these aspects ahead of the international context – the early Cold War, Yugoslavia's territorial claims and, last not least, Austrian State Treaty negotiations and the provisions of its Article Seven – seeks to counteract the interpretation which sees Yugoslavia's territorial claims on Carinthia as the prime dimension of post-war minority politics. That does not mean that the Yugoslav claims – or their potentially disastrous implications for the populations concerned – should be ignored, but it does imply that their basic importance lay in the way they were overstated and dramatised. In particular, it will be argued here, they were instrumentalised by Carinthian (and other) political actors in order to gain political advantage. They allowed politics to centre on mobilising in defence of the supposedly threatened *Heimat*, an identity which was understood as exclusively German-speaking.

One result of this polarisation was that discussion of the continuity question itself was often a test of loyalty (or subversion). An early example can be seen in the rejection of the claim that Carinthia was particularly marked by its Nazi past. For example Paul Jobst, a leading Carinthian Social Democrat politician, responsible for oversight of denazification, wrote in the *Neue Zeit* on 10 March 1946, indignantly rejecting the defamation of Carinthia as a brown province. He went on to condemn those who used this label, above all the Slovene Liberation Front (Slov. *Osvobodilna fronta*) (Jobst 1946). But Jobst was setting up an Aunt Sally – caricaturing a position as manifestly unjust in order to demolish it and using the indignation thus generated to strengthen Carinthian defensiveness and foster collective identity. Precisely for this reason it seems more useful to

avoid this – and similar types of emotive labelling about a collective Carinthia – which usually hinder dispassionate historical enquiry.

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## 2. Anti-Slovene Continuity and the Transition of May 1945

The resilience of anti-Slovene attitudes in Carinthia is closely linked to the nature of the Carinthian transition of power in May 1945. The description of the transition by Hans Haas and Karl Stuhlpfarrer (1977, 88) as “uniquely legal” appears to be confirmed by other evidence, notably the account of the negotiations between *Gauleiter* Rainer and a group of Carinthian politicians written by the chief *Gau* administrator (Ger. *Gauamtsdirektor*) Meinrad Natmeßnig (Doc. 1). Natmeßnig’s account, clearly written soon after the negotiations took place, shows not only the relatively harmonious atmosphere but also the way perceptions of the 1918–1919 struggle (Ger. *Abwehrkampf*) provided shared ground for both departing Nazis and arriving politicians. On 6 May, for example, Rainer told the latter that he “assumed” (Doc. 1) that its principles would be included in the new post-Nazi order. The politicians reassured him that they had always stood by the principle of “a free and undivided Carinthia” (Doc. 1). Rainer then proposed that a “League of Defenders of the border” (Doc. 1) be mobilised in defense of the border. This should be organised in a way that would avoid the charge that it was “a camouflaged SA or something similar” (Doc. 1) but Nazi members would need to be swiftly integrated simply because they were “the best *Abwehrkämpfer*” (Doc. 1) and would be lost if they were spurned by the new power-holders. Hans Piesch, the Social Democrat leader, assured Rainer that only Nazi *Kreisleiter* were unacceptable as “fighters [for the border]” (Doc. 1); furthermore only Nazis who had violated the law would be punished and this would be publicly stated. No-one would be punished purely on the ground of party membership: “we will not prosecute Party members for their party membership but only implement personnel changes, and these won’t be done quickly” (Doc. 1). Rainer then promised that the fighting forces of the party would not oppose the new regime and announced that he himself wished to help to preserve the unity of the province. Carinthian unity and the moderate treatment of party members duly featured in the key public statements which followed. Rainer may appear to have lost touch with reality in some respects – according to one eyewitness he was afraid that the British might assign a Jewish adviser to him, with whom he would “of course” be unable to collaborate (Newole 1946). Yet he was surely correct in understanding that – despite the lost war and years of propaganda – the *Abwehrkampf* still retained much of its mobilizing potential.

Carinthian opinion as a whole was clearly diverse and fragmented. There was presumably, as elsewhere, great war weariness, and uncertainty about the future and there may well have been a similar collapse of expectations and

illusions among the younger generation of Hitler Youth. Yet overall it is difficult to see much evidence here of a society in the process of disintegrating (Ger. *Zusammenbruchsgesellschaft*). One British observer reported that as well those who felt sincere pleasure at the liberation “a large proportion of the people is now anti-Nazi, but not because Nazism was bad, only because it failed” (Knight 2017, 26).

Above all it is difficult to find evidence of a radical shift of attitudes towards the Slovene minority. After seven years of Nazi propaganda and many more preceding decades of ethnic conflict the assumption that Slovene language, culture or race was both inferior and threatening remained widespread. A generation of children – whether German and Slovene-speaking or both – had passed through an education system which was designed to make them “fully valued members of the German nation right from their childhood and from their parental houses” (Ferenc 1980, 563–565, 572–574). Propaganda as well as social pressure had led to a drastic decline in the use of Slovene, especially in public.

Even the utter defeat of Nazi Germany had only partly dented the message of German superiority. In July 1945 an American OSS report summed up the view of “many German-Carinthians” as being that the Slovene minority “deserved and continues to deserve no better fate than absorption into the superior German community” (Beer 1987, 426). The stigmatisation of Slovene had also been accepted and internalised by many “radical assimilants” (Larcher 1988, Ottomeyer, 1988). Some resistance to speaking Slovene came from children. These attitudes contrasted starkly with the self-confident exuberance of the victorious partisans and their supporters in the Liberation Front (Slov. *Osvobodilna fronta*), who during the Yugoslav occupation of southern Carinthia in May 1945 agitated for the secession of the area to Yugoslavia, and continued to support it after the troops were forced to withdraw.

The introduction of compulsory bilingual instruction for all children in over 100 primary (elementary) schools a few months later was a radical attempt to escape from the long continuity of ethnic polarisation (Domej 2003). As already suggested, Tischler’s basic assumption was that a common village school, where both languages were taught, could undermine ethnic divisiveness: like Switzerland, Carinthia was “a province inhabited by two nationalities. Its inhabitants therefore have the fundamental duty to master both languages of the province” (Tischler 1957b, 25–26). This Swiss analogy (whether or not it was genuine, idealised or instrumental) led Tischler (as reported by British intelligence) to hope that through the new school system the children of German-speaking Austrians “will be brought to understand their Slovene compatriots through a knowledge of their language, literature and culture” (Knight 2017, 35–36). Given the basic context outlined here it is not difficult to see that Tischler’s experiment would be hard to implement. The most obvious reason, as already

indicated, was the continued anti-Slovene stereotyping, which clearly had not been removed through an anti-Nazi educative process, as sometimes argued, and could hardly be ended overnight.

For similar reasons the denazification programme instigated – with some ambivalence – by the British occupation authorities was unlikely to achieve a more tolerant, pluralistic attitude towards Slovene culture or identity. Many of the flaws of denazification in Austria were similar to those in the Western zones of Germany and have now been well researched. One difference worth pointing out was that in Austria the revival of party politics began earlier and was less closely monitored. As a result Austrian politicians became active agents; and denazification – above all exemptions from it – soon became inextricably entangled with party recruitment and party patronage (Knight 2007). In Carinthia the Social Democrats (*SPÖ*) profited most from the early reestablishment of party politics, partly because they were able to attract members who before the *Anschluss* had left them for the illegal Nazi movement but also because they were able to attract those elites for whom the People's Party appeared too close to the Catholic church.

This party political maneuvering was well under way well before the re-enfranchisement of former less implicated (Ger. *minderbelastete*) Nazis (in Carinthia about 40,000) in May 1948. But it clearly gained further momentum and meant that both main parties became, in the words of one British report, busily engaged in enlisting the “prodigal sons” (Knight 2017, 73). In the elections in the following year the party set up by former Nazis, the Electoral League of Independents (Ger. *Verband der Unabhängigen*, further *VdU*), gained 20 per cent of the vote and entered the Carinthian *Landtag* with 8 seats (out of 36).

Many of the prodigal sons (and some daughters) were not just demanding second helpings of fatted calf, they were laying down demands about how the next course should be cooked. From the start, the *VdU* made the abolition of the bilingual school – or coercive school (Ger. *Zwangsschule*) as they called it, a key part of their programme and kept it at its centre over the following decade. Nevertheless it is important not to reduce minority politics to the rise, decline (and return) of the *VdU*. The party was only one element in a new triangular politics and what mattered most was the spill-over effect onto the two main parties. As it sought to recoup the ground lost in the 1949 election, the *SPÖ* steadily shifted away from the basically tolerant attitude of their leader Wedenig. And as they recruited or sponsored former Nazis their centre of gravity shifted in a more anti-Slovene direction. The shift can be seen *inter alia* in the reporting of *Neue Zeit*, which became more markedly anticlerical and anti-Slovene, especially after Hans Paller was appointed as editor in 1954.

In some ways the shift inside the Austrian People's Party (*ÖVP*) was more obvious. The tension between its Christian Social Catholic wing and the former supporters of the antisemitic and often anticlerical Agrarian League (Ger.

*Landbund*) were built in from the start. As the courting of former Nazi votes intensified, the latter gained ground. In the summer of 1948, Carinthian ÖVP leaders even wanted to shift to a more explicitly anti-Slovene line, ending all Slovene public signage and the use of Slovene in administration and schools: its leaders thought this would “greatly increase the chances of the provincial party” (Wildner 1948).<sup>3</sup> The veteran German nationalist activist (and former Nazi party member) Hans Steinacher was a pivotal figure in shifting the party in a more pronounced anti-Slovene direction.

The obverse of this process was the marginalisation of Slovene leaders. Admittedly they also contributed to this process themselves by deciding to boycott the elections of November 1945, although prime responsibility presumably lay with the communist leadership in Belgrade or Ljubljana (Knight 2017, 37–39). Tischler himself became *persona non grata* in Vienna after publicly criticizing Austrian policy at the height of the Moscow State Treaty conference in April 1947. Even after he broke with the Liberation Front later that year and formed a separate Catholic National Council (Slov. *Narodni svet*) his attempts to return to mainstream politics were rebuffed in Vienna. When he was briefly admitted to Chancellor Figl in June 1949 and allowed to submit proposals for a far-reaching minority statute, this was the exception which proved the rule. In the Austrian cabinet discussion Oskar Helmer, the SPÖ Minister of the Interior, declared that “Dr. Tischler is a traitor who ought to be locked up” (Doc. 2). The objection to Tischler from the ÖVP education minister Felix Hurdes (a Carinthian) were similar but in a sense more significant, since they showed how little sign of a rapprochement there was, even where there was shared ideological ground of Catholicism and anti-communism. In any case, despite Hurdes’ fears, the chances of either Tischler or the rival Titoist organisation Democratic Front of the Working People (*DFDL*, *Demokratična fronta delovnega ljudstva*) influencing the decision-making over minority protection (Article 7 of the Austrian State Treaty) were slight (Doc. 2).

This helps explain a striking disconnect, which has not been much commented on, between the diplomatic discussions about minority protection and the actual situation of the minority which was meant to be the subject of the protection. The final text was vague on some key points or – notably on the question of bilingual education – completely silent. As Tischler (or his supporters) put it, the final wording was “not sufficiently precise and leaves too much to the good will of the Austrians” (Knight 2017, 72). That lack of goodwill – or better, of the political will of Carinthian actors to incur the political costs of appearing sympathetic to minority aspirations – steadily diminished over the following decade.

### 3. The International Context: Minority Politics in the Cold War

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This provincial politics took place in a highly charged national and international context, marked by polemics, agitation and counter-agitation over the future of Carinthia's southern border. The way this territorial dispute became a hotspot in the early Cold War, starting with the confrontation between Yugoslav and British forces in May 1945, has been told many times and need not be repeated here. The diplomatic discussions of the Foreign Ministers of the USA, Soviet Union, Britain and France which took place between 1947 and August 1949 in the context of Austrian Treaty negotiations have also been researched in great detail, in particular by Gerald Stourzh (1998).

The central point to be made here is that the Carinthian border dispute, and more broadly the Cold War, were not just threats, they also brought opportunities. For some German nationalist and former Nazi activists there was a chance to regroup, adjust to the catastrophe of 1945 and regain the initiative. This allowed Carinthian ethnic politics to be reframed in a way which allowed well-established anti-Slovene attitudes to be mobilised – with appropriate adaptations. This does not mean that the reality of Yugoslavia's territorial claim, the readiness of the Yugoslav leaders to assert it through a military *fait accompli* in May 1945, and the probably brutality which would have accompanied its implementation, should be ignored here. Yet it is also clear that some politicians and activists – of different political colours – had an interest in maintaining, prolonging and overdramatizing the conflict. Initially at least, that meant an odd convergence of the Liberation Front and their German national opponents. To adapt Pieter Judson's terms, both the “guardians of the border” and their enemies, sought to foster the belief (whether as hope or fear) that a border revision was possible (Judson 2006).

For Yugoslav policy the border issue might have had an advantage in the phase when it was seeking to broaden its appeal beyond the cadres who had fought in the Liberation Front, but the available evidence strongly suggests that once the window of opportunity was closed in May 1945 the interest of Yugoslav (or Slovene) communists in annexing southern Carinthia steadily diminished. That can be seen for example by the way the Yugoslav delegation to the Austrian Treaty talks in Moscow in March 1947 came equipped with a range of minority protections proposals. Both Edvard Kardelj in Moscow and later Aleš Bebler in Belgrade clearly signalled the Yugoslav readiness either to drastically reduce its territorial claim, or drop it altogether in return for an agreement over the exploitation of the two Drau hydro-electric power stations at Žvabek/Schwabegg and Labot/Lavamund (Knight 1985).

However, a compromise along these lines did not materialise. The main reason was probably the growing mistrust between East and West over the



terms of the Austrian Treaty, in particular the complex issue of German assets in Austria, which increasingly overshadowed discussions. But it should also be noted that, especially as tensions increased between Moscow and Belgrade in 1948, Yugoslav leaders became reluctant to pursue the compromise idea they themselves had earlier put forward. Presumably they feared exposing themselves to Soviet attacks for abandoning the Carinthian Slovenes.

Last not least, there were Austrian and western interests keeping the border question in play. Leaders of the SPÖ like Adolf Schärp used it as early as September 1945 for electioneering purposes. So did the ÖVP Foreign Minister in April 1947 Karl Gruber, when he flagged up international differences over the border in order to try to act as its defender and so deflect domestic criticism of the failure to get agreement at Moscow. A year later the border dispute was used by Western leaders in order to engineer a break-down of the Austrian Treaty talks in London. Soon afterwards the British Foreign Minister Ernest Bevin adopted the idiom of the Carinthian *Heimat* when he assured visiting Austrian parliamentarians that he had felt he had been “acting in the spirit of the Austrian people” and “whatever the delay, whatever the trouble, we must not surrender an inch” (Knight 2017, 63). A similar dramatic rhetoric was used again by Gruber in 1949 as he continued to suggest that the future of the border hung in the balance even when agreement was imminent. Once agreement was reached Gruber headed to Carinthia to play again the part of doughty defender of the border for the sake of the People’s Party. In short, the international context helped the proverbial Carinthian primeval fear (Ger. *Urgangst*) to become (again) a central feature of Carinthian politics.

Yet it is hard to resist the conclusion that a more substantial *Angst* among Carinthian politicians than the fear of a Slav invasion or Slovene subversion was the fear of being outflanked by their political opponents over the national question. One example among several came in March 1949 when – to the irritation of the ÖVP – Wedenig returned from the latest round of Treaty negotiations in London and successfully portrayed himself as the prime defender of provincial interests. After attacks in the *Volkszeitung*, the *Neue Zeit* responded that

*/.../ the bourgeois circles in Carinthia have hitherto considered the struggle for the Heimat to be their political monopoly and sought to make political capital from it. They consider the fact that the Carinthian question is now no longer part of their party political brand as an incursion into their domain (Neue Zeit 1949).*

The overall outcome of this maneuvering was that a question which, at least in principle, could have been disposed of in April 1947, was perceived as hanging in the balance or – to use another favourite phrase of the Carinthian press – standing on a knife-edge. That helped those – in all political parties – who sought to return to an anti-Slovene agenda or, as they saw it, reverse the unwarranted concessions

made to the minority in 1945. Chief among these was Tischler's bilingual school system. From the start it had been attacked as the first step down the slippery slope to secession. Its supporters, including teachers and education officials, were attacked for activity verging on treason. The actual rationale of the school, the overcoming of Nazi germanisation and the stigmatisation accompanied it, faded into the background.

This provincial momentum had its own dynamic. Though it was certainly facilitated by the international context it was not dependent on it. For example, far from diminishing after the four Foreign ministers confirmed the 1937 territorial *status quo* in June 1949, it increased. On the other hand, appeals for restraint from Vienna now had a clear foreign policy basis: the continued dramatisation of the border stood in the way of an improvement of Austrian-Yugoslav relations.

The tension between provincial dynamics and foreign policy considerations emerged as the thirtieth anniversary of the 1920 plebiscite approached. Early in 1950 the Austrian envoy in Belgrade Karl Braunias warned against "smashing too much china" in the forthcoming celebrations (Knight 2017, 81). As often in ethnic politics, financial issues were also centrally involved, especially after the Carinthian government put in a request for a massive financial grant to mark the occasion. As the subsequent Cabinet discussion shows, ministerial reservations reflected their doubts about the Carinthian claim to an exceptional status within the Austrian republic. Even the comments of the most outspoken pro-Carinthian voice in the cabinet, Ferdinand Graf, (State Secretary for Internal affairs) that "we can't now suddenly downplay Carinthia" (Doc. 3) implicitly acknowledged that for the previous four years Austrian (and Western) policies had been engaged in precisely the opposite of downplaying. But the discussion also sheds light on the readiness – or lack of it – of federal actors to intervene against anti-Slovene trends in Carinthian politics (Doc. 3).

It is unclear what exactly followed from Gruber's intention to "pour cold water on the hot-heads" (Doc. 3) in Carinthia. At the anniversary celebrations themselves, the *VdU* could not be excluded altogether. However, Braunias was able to report from Belgrade – with evident relief – that despite some critical articles "the 10<sup>th</sup> October had been got through well: in the Yugoslav press the celebrations had received less prominence than the international football match played two days before" (Knight 2017, 82).

Seen from Ljubljana or Belgrade, the Carinthian Slovenes clearly mattered much less than securing the government's position against its internal critics and external pressures from the Soviet Union and its supporters. Both pointed to the need to improve diplomatic and economic relations with the West, including Austria. Yugoslav politicians apparently preferred to listen to reports which painted the situation in rosy colours, and placed their hopes in progressive forces (especially the *SPÖ* and their leader Wedenig). The 1954 local election results for example were seen as evidence that Carinthian soil was not suitable for

German nationalism. Less rose-tinted assessments like those of Lojze Ude, which were based on a deeper understanding of the internal dynamics of the Carinthian politics, were not welcome (Ude 1956). As a result of this wishful thinking, Yugoslav leaders found themselves repeatedly surprised and disappointed when the strength of the anti-Slovene lobby in Carinthia became clear. That was also true of the tumultuous events of autumn 1958.

#### 4. Conclusion

The bilingual school remained at the top of the provincial agenda throughout the 1950s and this helped move Carinthian politics in a more anti-Slovene direction. Gruber's label of "hotheads" (Doc. 3) probably applied to many of the activists who formed the core membership of organisations like the Kärntner Heimatdienst. Yet the label has two weaknesses: firstly, it understates the thoroughly rational calculations which lay behind much of the anti-Slovene lobbying; secondly, it wrongly implies a separation between an ideologically motivated core and Carinthia's political culture. Here it is worth stressing that the lobby against the bilingual school was not primarily about education or aimed at gaining the support of those whose children were actually attending bilingual instruction. Outside small towns like Bleiburg/Pliberk and Völkermarkt/Velikovec, the *VdU* was electorally weak throughout southern Carinthia. Even more widely in the province as a whole, the party failed to repeat its success of 1949. What it did succeed in doing was to push the two main parties in an increasingly anti-Slovene direction as they attempted to take the wind out of the sails of the anti-Slovene lobby. That success in turn owed much to its ability to portray itself as the voice of loyal Carinthians under threat from Yugoslavia.

To an extent this anti-Slovene lobbying can be seen, in line with recent warnings about "groupism" (Brubaker 2004), less as the representation of a clearly bounded national group engaged in a competition with an opposing one. It was the process of fighting the battle itself that helped construct ethnic group identity in the first place, define its borders, then monitor and patrol them. At the same time it should be stressed that Slovene and German activists were not involved in comparable entrepreneurial activity in a free identity market. Competition was never symmetrical, and the ethnic market was no freer than the economic market of neo-liberal hopes. The state – or large parts of it – was effectively owned by German elites and the non-dominant Slovenes were weaker, economically, politically and psychologically. Those parts of the state which were not, notably some federal authorities in Vienna, in the end lacked the self-confidence or stamina to assert themselves. Here the memories of pre-war federal weakness and the ebbing away of legitimacy before the *Anschluss*, also played a role.

This lack of federal assertiveness should be born in mind when the implementation of Article Seven of the Austrian State Treaty and its a commitment to protect Austria's Slovene and Croat minorities is considered. Internationally, there was little interest in its implementation. Before its signature both Austrian and Western negotiators would have preferred to drop the article altogether if not for the risk of reopening negotiations with Yugoslavia. After signature, there was little interest among Austrian diplomats in "making a big deal of the issue" (Ger. "*die Sache gross aufziehen*") (Knight 2017, 96). In the resultant vacuum German national lobbyists pressed forward. There were admittedly also initiatives from the two main Slovene groups but they could hardly match the strength of their opponents.

Three years after the State Treaty was signed, and less than a year after Tischler's speech cited at the beginning, the pressure on the Carinthian Governor Wedenig became irresistible. In September 1958 he was forced by his own party to issue a decree (Ger. *Erlass*) which allowed parents to deregister from bilingual education. The intimidation, persuasion and application of economic muscle which this triggered resulted in fall of the numbers of registered children from over 12,000 to just over 2,000. In some village schools all Slovene-speaking children were now only allowed to be taught in German. Statistics for ethnic or linguistic competence are highly contested of course, but if we accept the estimate of Carinthia's civil servant Karl Newole (who had little reason to exaggerate) in 1955 80-85,000 people had "a Slav language of daily use" (Ger. "*slawischer Umgangssprache*") (Knight 2017, 89). That was double the highest figure which could be deduced from the 1951 census. Whether those referred to are labelled Slovenes or Slovene-speakers it is clear that a massive assimilatory shift had taken place. That was confirmed two years later in the 1961 census (Pleterski 1966).

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## Notes

- <sup>1</sup> Revised version of a lecture given at the Institute for Ethnic Studies on 24 April 2017. I would like to thank the Institute for their invitation, as well as colleagues and friends for help and support in my research on this topic, in particular Prof. Tone Ferenc, Prof. Janko Pleterski, Dr. Dušan Biber, Darinka Drnovšek, Ksenija Šlabe and Metka Suk. References have been kept to a minimum.
- <sup>2</sup> "Kaj je temeljno vodilo dvojezične šole? Mislim, da smo vsi med drugo svetovno vojno z izkušnjami na lastni koži prišli do prepričanja, da mnogo strahot, ki so se dogodile po naših vaseh, ni bilo odločenih ali dekretiranih iz Berlina, Dunaja in niti ne iz Celovca, temveč da jih je izleglo sovraštvo na vasi in občini. Odkar se je v južni Koroški razplamtel narodnostni boj, je bila deželna razdeljena v dva bojna tabora. Ta boj je prizadel hude rane povsod. Te stare rane smo hoteli ozdraviti, ne pri starih, temveč pri mladini in zato smo ji z dvojezično šolo zgradili most, ki naj oba deželana – bratsko veže, jima nudi možnost, da se zblížata in se v srečanju medsebojno duhovno oplemenitujeta. Hočemo tudi, da bo naš otrok vzgojen v poštenega državljana, ne da bi se mu bilo treba pri tem odpovedati svojemu rodu. Vsi moramo po svojih močeh prispevati odgovarjajoči delež k skupnemu blagru, ki je končno tudi pogoj blagra vsakega posameznika. Ta skupni blagor pa je moč doseči le v miroljubnem sožitju, medsebojnem spoštovanju in pozabi bridke preteklosti. Naj bo našim otrokom prihranjeno trpljenje naših očetov!" (Tischler 1957a, 1).

- <sup>3</sup> “Figl erzählte mir voll Entrüstung, der Karisch aus Klagenfurt sei eben bei ihm gewesen und hätte ihm den Beschlussantrag der Kärntner Landesregierung der Partei notifiziert, dass man die slowenischen Aufschriften beseitigen und die Gebrauch der slovenischen Sprache in den Ämtern und Schulen einstellen solle. Das werde die Chancen der Landespartei sehr steigen lassen. Figl habe das mit den Worten abgelehnt, dass er verrückt geworden sei. Unter keiner Bedingung könne er darauf eingehen, worauf sich Karisch aber auf eine Rücksprache mit Hurdes berief. Graf ist nicht da. Das ganze sieht, wie Figl meinte, sehr stark nach einer Intrige gegen ihn und Gruber aus” (Heinrich Wildner Diary, 24 July 1948).

## DOCUMENT ONE<sup>1</sup>

Slovene Scientific Institute/*Slowenisches Wissenschaftliches  
Institut* (SZI), Klagenfurt, C, XII.

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### Erinnerung

an die Geschehen Kärntens in den Tagen des Zusammenbruches Grossdeutschlands, den schwersten Tagen in der Geschichte des Deutschen Reiches und den schicksalsschwerste Tage [sic] meines Heimatlandes

Kärnten.

Vorausschicken will ich, dass der Gauleiter und Reichsstatthalter in Kärnten, Dr. Friedrich Rainer, mich am 1. Mai<sup>2</sup> 1945 mit der Führung der Geschäfte des Regierungspräsidenten betraut hat, wodurch ich dessen allgemeiner und ständiger Vertreter in seiner Eigenschaft sowohl als Chef der staatlichen Verwaltung und der Gauselbstverwaltung wurde.

Der Regierungspräsident Ferdinand Wolsegger hat seit seiner Rückkehr von Triest, wo er beim Obersten Kommissar in der Operationszone "Adriatisches Küstenland" als Vertreter desselben durch mehr als ein Jahr verwendet wurde, seine Aufgaben als Vertreter des Reichsstatthalters in der staatlichen Verwaltung nicht in dem wünschenswerten Masse erfüllt.

Der Zerfall der deutschen Wehrmacht und damit des Deutschen Reiches schritt unaufhaltsam vorwärts. Es stand lediglich der Zeitpunkt des endgültigen Zusammenbruches offen, zu dem auch das nationalsozialistische Regime abtreten und seine politische- und Staatsgewalt einem neuen Regime übergeben muss.

Mit Rücksicht auf diesen Zustand hat der Gauleiter in den ersten Tagen des Monats Mai 1945 keine klaren Weisungen mehr gegeben, weder der Partei, noch der staatlichen und der Gauselbstverwaltung.

Generaldirektor Dipl. Ing. Julius Heinisch teilt mir Ende April mit, dass die Sozialdemokraten über eine Liste ihrer zukünftigen politischen Vertreter beraten. Ich bat ihn um Bekanntgabe der Namen derselben, //<sup>2</sup> um im geeigneten Zeitpunkte die Verhandlungen wegen Übergabe bzw. Übernahme der Macht aufnehmen zu können. Gleichzeitig habe ich beim Kanzler des Fürstbischöflichen Ordinariats in Klagenfurt, Professor Dr. Kadras, ange-

<sup>1</sup> During the typing of the Documents the obvious typing errors were corrected, whereas unclear words and places are marked by the author. Footnotes are also author's comments. A new page in the original document is marked with the symbol // and the page number of the original document.

<sup>2</sup> Handwritten insertion.

fragt, welche Vertreter etwa die christlichsoziale Parteirichtung repräsentiere.

Am gleichen Tage (3. Mai 1945) hat der Gauleiter sich endlich zur Erkenntnis durchgerungen, – angeblich dem eindringlichen Rate seines Freundes, SS-Obergruppenführer Odilo Globotschnik, folgend – dass die Übergabe der Macht nur mehr eine Frage von Tagen sein kann. Er hat daher an die Partei (über den stellvertretenden Gauleiter Friedrich Thimmel) Weisungen wegen Verwendung des Vermögens der Nationalsozialistischen Deutschen Arbeiterpartei und der Deutschen Arbeitsfront gegeben.

Diese Verfügungen wurden in Parteikreisen dahingehend aufgefasst, dass sie die angeordnete Liquidation der Partei bedeuten, wodurch ein ziemliches Durcheinander in den Auffassungen und in den Massnahmen entstanden ist und besonders die Auflösung der Parteieinrichtungen beschleunigte.

Der Gauleiter hat am gleichen Tage seine engsten Mitarbeiter und Freunde zu sich nach Pörtlach gebeten, um mit denselben die Formalitäten der Machtübergabe zu besprechen. Im Laufe des Tages erhielten auch der Landesbauernführer Reinhold Huber und ich die Einladung, nach Pörtlach zu kommen, ohne zu erfahren, warum wir eingeladen werden.

Ich wurde erst abends (angeblich sollte das Eintreffen des Regierungspräsidenten Ferdinand Wolsegger und des Präsidenten der Creditanstalt, Franz Hasslacher in Spittal, abgewartet werden) zur Besprechung beigezogen. Bei meinem Erscheinen fand ich u.a. vor:

SS - Obergruppenführer Globotschnik ,  
SS - Standartenführer Maier-Kaibitsch, //3  
Hauptmann Fritz,  
v. Mohrenschildt,  
Felix Kraus,  
Bezirksfeuerwehrführer Kohla,  
Landesbauernführer Huber  
und einige SS-Führer.

Von denselben erfuhr ich, dass die Besprechung beim Gauleiter bereits seit 3 Uhr nachmittags läuft und dass man sich mit der Aufstellung einer Liste der künftigen Mitglieder einer die Macht übernehmenden Körperschaft befasste, ohne jedoch zu einem Ergebnis zu kommen. Ich meldete hiezu die mir bekanntgewordenen Namen verschiedener Vertreter der seinerzeit bestandenen politischen Parteien an und erklärte, die mir von den anwesenden Herren genannten Namen kaum für die Übernahme der Macht geeignet zu finden, weil die Verhältnisse sich so entwickeln, dass Männer des bisherigen Systems von den künftigen Machthabern jedenfalls abgelehnt werden würden.



Erst nach Mitternacht (am Morgen des 4. Mai 1945) gab Dr. Rainer (wohl auf Grund meines besonderen Drängens auf möglichst baldige und weitgehende Klärung) die Erklärung ab, dass er geneigt ist, die Folgerungen aus den gegebenen Tatsachen zu ziehen. Er beauftragte mich, mit den Vertretern der politischen Richtungen wegen Namhaftmachung der Namen der künftigen Mitglieder eines Vollzugsausschusses für die Übernahme der Macht im Lande Kärnten zu verhandeln.

Am 4. Mai 1945 habe ich - hauptsächlich durch Inanspruchnahme der Vermittlungsdienste der Polizei und der Hausmeisterin im Landhaus, Frau Julie Hardinka - eine Anzahl von Vertretern der früheren politischen Parteien um eine Vorsprache gebeten. //4

Andere politische Interessenten - auch solche, die ein persönliches Bedürfnis hatten, sich im neuen Regime politisch zu betätigen - sind selbst aufgetaucht.

Ich nahm die Verhandlungen anfänglich mit den mir als Fraktionsführer bekanntgegebenen Herren Hans Grossauer (für die Christlich-sozialen) und Julius Lukas (für die Sozialdemokraten) auf, mit welchen ich die Vorschläge wegen der persönlichen Zusammensetzung besprach.

Auf Grund einer am Vorabend mit dem Gauleiter getroffenen Vereinbarung habe ich die für den Vollzugsausschuss vorgeschlagenen Herren ihm um 12 Uhr vorgeführt, um mit ihm die noch schwebenden Fragen wegen Übergabe der Macht zu besprechen. Auf meine fernmündliche Meldung, dass die Herren des Vollzugsausschusses bereit sind, zu ihm zu kommen und nachdem ich ihm die Namen derselben bekanntgegeben hatte, teilt mir der Gauleiter mit, dass die Zusammensetzung keinesfalls seinen Wünschen entspreche, weil er in diesem Vollzugsausschuss den Abwehrkämpfegeist nicht verkörpert sieht. Die Vorsprache fand trotzdem statt.

Bei dieser Aussprache mit dem Gauleiter legte derselbe ausführlich die gegenwärtige militärische und die sich für ihn hieraus ergebende politische Lage dar und stellte - im übertriebenen Optimismus - fest, dass der Zeitpunkt für seinen Rücktritt noch nicht gekommen sei. Er bat die Herren, die Zwischenzeit zu einer Prüfung der Liste für den Vollzugsausschuss auszunützen und ihm allenfalls neue Vorschläge zu machen.

Trotz der von den Herren gemachten Einwendungen, dass jede Verzögerung der Übergabe der Macht dem Lande nur schaden kann und Unruhe erzeugen könnte, //5 erklärten sich die Herren des Vollzugsausschusses schliesslich doch zu einer Verschiebung des Übergabstermines für einen Zeitpunkt bereit, zu dem die militärische und politische Lage völlig geklärt ist.

Bis jetzt glaubte ich annehmen zu können, dass nur militärisch und staatspolitische Interessen gegen eine sofortige Übergabe der Regierungsgeschäfte an die künftige Machthaber sprachen. Der

weiteren Verlauf der Dinge brachte mir aber die Erkenntnis, dass persönlicher Stolz und Eigendünkel des Gauleiters mit die Triebfeder dafür waren, dass der längst reife Entschluss erst so spät gefasst wurde.

Dieser Zeitgewinn lag aber doch auch im Interesse der künftigen politischen Machthaber in Kärnten, da dieselben für eine Machtübernahme keinesfalls vorbereitet waren. Das hat sich bei allen Verhandlungen mit den verschiedenen Vertretern der früheren politischen Parteien gezeigt. Diese waren nicht in der Lage, die Männer für eine provisorische Regierung zur Übernahme der Gewalt innerhalb 48 Stunden bekanntzugeben und mussten erst umfangreiche Fühlungnahme mit alten Parteigenossen anstreben.

Die Männer der verschiedenen Parteirichtungen haben nunmehr engere Fühlung mit ihrem Gewährsmännern genommen. Eine Besprechung der Vertreter der demokratischen Parteien fand in dem zwischen meinem Arbeitszimmer und dem Landtagssitzungssaal befindlichen Arbeitsraum im Landhaus am Sonntag, dem 6. Mai 1945, vormittag statt. Das Ergebnis dieser Beratung wurde im beigeschlossenen Schriftstück, das die Unterschriften einer Anzahl von Vertretern der früheren Kärntner demokratischen Parteien trägt, festgehalten. Nach diesem Schriftstück wurden 8 Mitglieder für einen Kärntner Vollzugsausschuss vorgeschlagen, der bestimmt ist, die Geschäfte des Reichsstatthalters (staatliche und Gauselbstverwaltung) zu übernehmen. Zum Vorsitzenden dieses Ausschusses wurde Herr Hans Piesch bestimmt.

Die Liste enthält:

- 3 Vertreter der ehem. sozialdemokratischen Partei,
- 2 Vertreter des ehem. Kärntner Landbundes,
- 2 Vertreter der ehem. christlichsozialen Partei und
- 1 Vertreter der Wirtschaft (Handel- und Gewerbestand).

Gegen den mir am 4. Mai 1945 von Vertretern der Sozialdemokraten geäußerten Wunsch, auch Vertreter der Widerstandsbewegung (kommunistische Partei) in den Vollzugsausschuss zu übernehmen, musste ich Stellung nehmen, weil der Vollzugsausschuss nur Vertreter nach dem ungefähren Verhältnis der Stimmen der letzten demokratischen Wahl im Jahre 1933, die für die Zusammensetzung des Kärntner Landtages massgebend war und der im Jahre 1933 noch bestand, aufnehmen kann. Es blieb dem Vollzugsausschuss überlassen, nach der Machtübernahme nach eigenem Empfinden sich zu vergrößern.

Eine Anzahl von Vertretern des Vollzugsausschusses begaben sich am gleichen Tage zu mir nach Goritschach Nr. 44, Gemeinde Pörtlach, um dem Gauleiter die endgültige Liste der Mitglieder des Vollzugsausschusses zur Kenntnis zu bringen. Auf Grund einer längeren, im recht freundschaftlichen Tone gehaltenen Besprechung mit dem Gauleiter in der Villa Roseneck in Pörtlach habe ich den

Inhalt der abschliessenden Aussprache in einer Erinnerungsschrift festgehalten, die dieser Akte beigeschlossen ist.<sup>3//7</sup>

Der 7. Mai 1945 wurde als der Tag des Rücktrittes in Aussicht genommen und stellte der Gauleiter sowohl bei dieser Besprechung als auch bei der ersten Besprechung am 4. Mai 1945 den Rücktritt in Aussicht, wenn

- a) Deutschland (durch seinen von Adolf Hitler am 29. April 1945 anerkannten Führer Admiral Dönitz) zur Gänze kapituliert oder, wenn
- b) Feindtruppen Kärntner Boden betreten.

Am Montag, den 7. Mai 1945, lagen die militärischen Verhältnisse so, dass mit der baldigen völligen Kapitulation aller Heeresgruppen zu rechnen war. Ich machte den Gauleiter schon am Vortage auf die durch feindliche Rundfunksendungen diesbezügl. erfahrenen Tatsachen und weiters darauf aufmerksam, dass die Entscheidung nunmehr mit Windeseile heranreift.

Vormittag übergab mir der Gauleiter die von ihm gezeichnete Urschrift seiner Abdankungsurkunde zu treuen Händen für meine Aktensammlung. Er teilte mir bei dieser Gelegenheit weiters mit, dass er sich eine letzte Information aus dem Hauptquartier des Feldmarschalls holen wird, wohin (Graz) er befohlen wurde. Über seinen Wunsch habe ich den Gesandten a.D.Dipl. Ing. Stephan Tauschitz zur Mitfahrt eingeladen.

Um 1 Uhr kommt der Gauleiter ins Landhaus, wo er mich nicht sofort antrifft. Herr Santer läuft demselben nach und stellt ihn im Schreibzimmer der Gaukämmerei mit der Frage, ob er an die neue Regierung einen Wunsch zu stellen hätte. Diese sicherlich nur als Höflichkeit zu deutende Handlung Santers fasste der Gauleiter als eine Art persönliche Überwachung auf, stellte Santer zur Rede und verlangt anschliessend von mir die Rückgabe der Abdankungsurkunde. Nicht – wie er sagte – aus Misstrauen zu mir, (?)<sup>4</sup> sondern, weil er fürchtet, dass ich unter Druck gesetzt werde //8 und diese Urkunde vorzeitig herausgeben muss. Diese lächerliche Zumutung musste ich zurückweisen, die Urkunde habe ich dem Gauleiter wieder übergeben. Sie wurde mir nicht mehr zurückgestellt.

Die Mitglieder des Vollzugausschusses haben abends in meinen Arbeitsräumen auf die Rückkehr des Gauleiters und des Gesandten a.D. Tauschitz aus Graz gewartet. Letzterer hat nach seiner Rückkehr knapp vor 22 Uhr über die totale Kapitulation der deutschen Reichsregierung und über die Besprechungen mit Feldmarschall Kesselring berichtet. Der Gauleiter hat sich an die Tatsache geklammert, dass die beiden Gauleiter von Hamburg und Salzburg angeblich noch 2 Tage nach dem Einmarsch der Besatzungstruppen im Rundfunk gesprochen haben.

<sup>3</sup> See below.

<sup>4</sup> In original.

Um 22 Uhr ruft mich der Gauleiter an und erkundigt sich, ob die Herren bereit sind. Auf meine bejahende Antwort sagte er, ob es nicht besser ist, wenn er doch erst am nächsten Tage um 7 Uhr früh zurücktrete. Er befürchtet sonst Unruhen während der Nacht. Ich drängte den Gauleiter auf sofortige Entscheidung und konnte den Gauleiter mit ruhigem Gewissen hinsichtlich seiner Bedenken beruhigen. Hierauf erklärte er sich zum Rücktritt bereit.

Kurz hierauf meldete der Klagenfurter Rundfunk, dass in 15 Minuten eine wichtige Verlautbarung des Gauleiters erfolgt. Erst um punkt 11 Uhr nachts hat der Gauleiter seinen Rücktritt erklärt und folgende Rundfunkrede gehalten:

“Kärntner und Kärntnerinnen!

Die Besetzung Kärntens durch feindliche Streitkräfte hat begonnen. Die politische Tätigkeit der Partei findet damit ihr Ende. Ich verfüge die Einstellung der Tätigkeit in den Gebieten, //9 die vom Feind erreicht sind. Ich selbst werde als Nationalsozialist von den Feinden als Sprecher für Kärntens Interessen nicht anerkannt und nicht gehört. Ich mache daher als Reichstatthalter Platz, um jenen Kräften, die der Auffassung unserer Feinde besser entsprechen, Gelegenheit zur Bildung einer neuen politischen Plattform zu geben. Zu diesem Zwecke übertrage ich die Regierungsgeschäfte dem Gauhauptmann und kommissarischen Regierungspräsidenten Meinrad Natmessnig. In dieser Stunde rufe ich die Bevölkerung auf, Ruhe, Ordnung und Einigkeit zu bewahren. Erspart dem Lande weitere Opfer und Zerstörungen. Beachtet, Klagenfurter und Villacher, dass inere [sic] Unruhen mit dem Charakter einer offenen Stadt nicht zu vereinbaren sind und nach den Erfahrungen in Griechenland die Gefahr von Bombenangriffen herbeiführen. Benehmt Euch, Volksgenossen und -genossinnen, würdig gegenüber der Besatzungsmacht! Bewahrt die nationale Ehre!

Nationalsozialisten und Nationalsozialistinnen! Ich danke Euch für Eure Treue zum Führer! Seine Idee lebt in uns! Tretet jetzt alle geschlossen mit allen Euren Kräften ein für das freie und ungeteilte Kärnten.”

Ich habe hierauf die Verwaltungsgeschäfte im Bereich der Behörde des Reichsstaathalters als staatliche und Gauselbstverwaltung den Mitgliedern des Vollzugausschusses übergeben. Meine Ansprache ist im beigeschlossenen Schriftstück niedergelegt. Diese Handlung fand im historischen kleinen Wappensaal des Landhauses statt.

M. Natmeßnig<sup>5</sup>

<sup>5</sup> Signed.

Aus der abschliessenden Besprechung am Sonntag, den 6. Mai 1945 in der Wohnung des Gauleiters und Reichsstatthalters Dr. Rainer in Pörtschach, Villa Rosenegg, halte ich zur Erinnerung folgendes fest:

Zu der in Anwesenheit eines grösseren Teiles der künftigen Mitglieder der Provisorischen Kärntner Landesregierung vorgelegter endgültigen Liste des Vollzugsausschusses erklärte der Gauleiter:

Er setzt voraus, dass die Abwehrkämpferidee in diesem Ausschuss verkörpert ist. Die anwesenden Herren erklären, auf dem Grundsatz "Kärnten frei und ungeteilt" zu stehen und dass sie dies schon öfters zum Ausdruck gebracht haben.

Gauleiter: Beabsichtigen die Vertreter der Parteien diesen Standpunkt in einer Proklamation der neuen Regierung zum Ausdruck zu bringen ?

Antwort: "Ja".

Der Gauleiter bittet, ihm die Proklamation lesen zu lassen, weil er besonderen Wert darauf legt, dass durch den Wortlaut derselben die Nazionalsozialisten nicht abgestossen werden.

Gauleiter: Wichtig ist die Frage der Organisation der Abwehrkämpfervereinigung, weil die Gefahr besteht, dass gesagt wird, sie ist eine verkappte SA oder sonst wer. Wenn Sie die Nazionalsozialisten abstossen, verlieren Sie die besten Abwehrkämpfer.

Piesch: Untragbar für uns sind lediglich die Kreisleiter als Kämpfer. Wir werden aber keinem Nazi etwas tun, nur wenn er strafbar ist, wird er nach dem Strafgesetz verfolgt.

Santer: Wir geben Ihnen, Gauleiter, persönlichen Schutz.

Gauleiter: Dies ist mir angenehm, nicht wegen mir, sondern wegen meiner Mitarbeiter.

Santer: Nur in einem offenen Gerichtsverfahren vor einem ordentlichen Gericht können Verfahren gegen Parteigenossen eingeleitet werden.//2

Mehrere Herren erklären: Niemand wird wegen seiner Parteizugehörigkeit verfolgt werden.

Der Gauleiter erklärt hiezu, dass er mit einem massgebenden Herrn gesprochen hat, dass die kampfkraftigen Verbände der NSDAP nichts gegen das Regime unternehmen werden und dass er beabsichtigte diesbezügliche bindende Erklärungen abzugeben. Er will mithelfen, die Einigkeit des Landes zu wahren.

Er bittet besonders um eine gute Behandlung der kleinen Leute.

Piesch erklärte nochmals: Wir werden keinen Parteigenossen wegen seiener Parteizugehörigkeit verfolgen, sondern lediglich Umbesetzungen von Stellen vornehmen und auch diese nicht schnell.

Über diese Besprechung wird kein Protokoll aufgenommen, sondern wird lediglich Gauhauptmann Natmessnig für sich einen Erinnerungsvermerk machen.

M.Natmeßnig<sup>6</sup>

<sup>6</sup> Signed.

## DOCUMENT TWO

118

16 July 1949 166<sup>th</sup> Cabinet Meeting, Ministerrat der  
Bundesregierung Figl I, ÖStA, AdR, Bundeskanzleramt

Tagesordnungspunkt 14 (Mündliche Berichte der Minister)

BM Dr. Gruber: Die Verhandlungen in London gehen im großen und ganzen befriedigend weiter, wenn auch natürlich Schwierigkeiten auftreten. Wir haben die Absicht, die Verhandlungen bis August treiben zu lassen, weil wir versuchen wollen, aus den Russen das Maximum herauszuholen. Erst dann werden wir den Ministerrat damit befassen und werde ich nach//14 London reisen. Der Minister erinnert daran, daß die Hauptstreitfrage, betr. die Rückgabe der Lokomotiven, durch einen Brief ausgelöst wurde, den er selbst schon in Paris an die Außenminister der Westmächte geschrieben habe und wo er mitteilte, dass die Frage dieser 500 Lokomotiven geregelt werden müsse. Deshalb sei damals die Frage des Begriffes der Kriegsbeute in Paris nicht völlig erledigt worden. Er sehe keine Ursache, momentan den Standpunkt in dieser Frage zu ändern. Das Problem müsse notfalls über den September hinaus offen bleiben.

In den übrigen Angelegenheiten des Deutschen Eigentums gehen die Beratungen weiter. Man hat eine Reihe von Paragraphen des russischen Vorschlages erledigt. Über andere wird noch diskutiert. Es liegen gewisse befriedigende Zusicherungen vor. Schwierigkeiten bestehen noch bei der Aufteilung der Ölgebiete, der Raffinerien, der Hoffnungsgebiete usw.

Der Hauptgrund, warum ich den Ministerrat heute noch vor den Sommerferien mit Fragen des Staatsvertrages befasse, sind die Bestimmungen, betr. die Minderheiten. Nimmt man an, daß Mitte dieser Woche oder spätestens in der nächsten Woche die Lesung des Artikels 35 erledigt sein wird, dann wird man die Lesung der restlichen Bestimmungen des Vertrages durchführen und zur zweiten Lesung schreiten. Es ist aber auch möglich, daß man unmittelbar nach Erledigung des Art. 35 zu der Frage der Minderheiten zurückkehrt. Deshalb sind Instruktionen für unsere Delegation in London notwendig. Die Übersetzung des russischen Wortes "Minderheiten" lautet: "Angehörige von Minderheiten". Wir wollen in London vorschlagen, dieses Wort zu ersetzen durch "österr. Staatsbürger slovenischer bzw. kroatischer Zunge".

Ferner werden wir beantragen, das Wort "Schulinspektorat" durch "Schulinspektor" zu ersetzen. Wir stellen uns vor, auf die alte Idee des sogen.[nanten] Nationalkatasters zurückzugreifen. Ich habe eine gewisse Scheu vor einer Präzisierung, weil dann die Frage aufgerollt wird: Was ist ein Slovener? Diese ist aber nur zu lösen, indem man auf die objektiven Merkmale greift, was wieder

einen Rattenschwanz von Auseinandersetzungen zur Folge hat und unter Umständen eine gemischte Kommission zur Feststellung auf den Plan ruft, wer Slowene ist. Dieser Text würde es uns gestatten, die Frage des Zahlenverhältnisses zwischen österreichischer und slovenischer Bevölkerung auf Grund einer Befragung der Bevölkerung festzulegen.//15

Aus diesem Grunde bin ich der Meinung, daß wir entsprechend den Vorschlägen des Unterrichtsministeriums zwar bereit sein sollen, in London dessen Vorschläge zu unterbreiten (siehe Beilage),<sup>7</sup> aber wenn sie die Russen nicht akzeptieren, sollten wir unserer Delegation die Anweisung geben, die russischen Vorschläge anzunehmen. Auf keinen Fall möchte ich die Textfestlegung bis zur Außenministerkonferenz verschleppen, denn niemand kann garantieren, wie sich die internationale Lage verändern und wie sich insbesondere Jugoslawien anstrengen wird. Der Stellvertretende jugoslawische Außenminister hält sich in London auf und unternimmt dort alle möglichen Schritte, um eine weitere Einschränkung unserer Souveränität zu erreichen. Ich möchte daher um die Zustimmung des Ministerrates bitten, daß wir unserer Delegation eine Anweisung in der Richtung geben, daß wir diese Vorschläge machen, daß wir aber, wenn wir sie nicht durchsetzen können, die Westmächte ersuchen, dem russischen Text zuzustimmen, damit wir möglichst bald zu einer Regelung der Kärntner Frage kommen und sie nicht in eine Periode ungewisser internationaler Beziehungen verschleppen.

Zu der Frage der Teilnahme von Vertretern der beteiligten Bundesländer an den Londoner Verhandlungen erklärt der Minister, man solle eine solche möglichst vermeiden, weil dann die Russen sicherlich darauf bestehen würden, daß auch jugoslawische Vertreter beigezogen werden. Dies würde zu einer weiteren Verschärfung der Beziehungen führen. Wir hielten es für noch viel bedenklicher, wenn die Russen erklärten, sie wollten auch Vertreter der Minderheiten bei den Beratungen haben. Deshalb wäre es nicht gut, die Vertreter der Bundesländer gleichsam als Delegation nach London zu schicken. Ich sehe aber andererseits keine Schwierigkeit, daß die Landeshauptleute nach London beordert würden, wenn der Artikel erledigt wird und der Ministerrat die von mir vorgeschlagenen Richtlinien annimmt.

Der BK berichtet, daß heute morgen eine Vertretung der Kärntner Slovenen unter Führung des Dr. TISCHLER bei ihm vorgesprochen habe, die auch bei General Galloway vorgesprochen hat.

BM Helmer: Dr. Tischler ist ein Verräter und gehört eingesperrt.

Der BK bringt die Einleitung zu dem ihm überreichten Elaborat zur Verlesung. Das Statut selbst konnte ich noch nicht lesen.

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<sup>7</sup> Beilage D/166: Abschrift 4. Einlagebogen z.Zl 32.517/III/10/1949.

Aus den Überschriften ist aber zu //16 entnehmen, daß dies die reine Autonomie bedeuten würde. Wir müssen daher den Vertragstext möglichst rasch unter Dach und Fach bringen, ehe diese Vorschläge hier zu sehr bekannt werden. Es handelt sich dabei um Dr. Tischler, der Material nach Jugoslawien geschmuggelt und die bekannte Pressekonzferenz abgehalten hat. Wenn wir ihn nicht empfangen, ist das ein starkes Argument für ihn.

BM Dr. Hurdes: Ich empfangen ihn nicht. Er ist doch ein Verräter. Er hat Material nach Jugoslawien geschmuggelt.

Der BK: Wenn aber bekannt wird, daß ihn die Hochkommissäre empfangen und die österr. Bundesregierung nicht, so ist das ein Argument für ihn. Ich habe ihm gesagt, ich kann ihm keine Zusicherung geben, für uns seien die Bestimmungen des Staatsvertrages von St. Germain maßgebend.

BM Helmer würdigt die Schwierigkeit der Lage des Bundeskanzlers, meint aber, es wäre besser gewesen, Krankheit oder Abwesenheit vorzuschützen. Auch er sei dafür, mit den Slovenen ins Reine zu kommen. Im Hinblick auf das seinerzeitige Verhalten gewisser Führer der Slovenen sollte sich aber die österr. Regierung bei aller Vorsicht, die sie im Hinblick auf die Londoner Verhandlungen walten lassen müsse, doch der Zurückhaltung befleißigen. Diese Abordnung hat sich auch bei mir angesagt. Ich habe aber erklärt, daß ich nicht da bin.

BM Dr. Hurdes teilt mit, man habe von ihm die Entfernung des Dr. Tischler aus dem Unterrichtsressort verlangt. Man könne von ihm nicht verlangen, daß er diesen Verräter empfangen; andererseits könne man durch diese Frage auch nicht den Staatsvertrag gefährden.

Als Ressortminister habe ich es, da einzelne Bestimmungen des Staatsvertrages im Einvernehmen mit den zuständigen Ministerien durchgeführt werden, als meine Pflicht angesehen, meinen Standpunkt darzulegen. Die Bürokratie des Außenministeriums hat es aber nicht für notwendig erachtet, in dieser Frage das Einvernehmen mit uns herzustellen. Wir haben daher unseren Standpunkt schriftlich dargelegt. Soviel wir hören wurde diesem Standpunkt hinsichtlich des Punktes Minderheiten Rechnung getragen, wo wir vorgeschlagen haben, anstelle des Wortes "Minderheit" zu setzen: "österreichische Staatsangehörige slowenischer oder kroatischer Sprachzugehörigkeit". Es //17 ist auch notwendig, daß man von der Forderung der Slovenen nach einer Anzahl von Mittelschulen abkommt. Es würde vollkommen genügen, wenn man von dem "entsprechenden Unterricht" sprechen würde. Außerdem habe ich mich dagegen gewehrt, daß man den Ausdruck "Schulinspektorat" übernimmt.

Ich habe diese Standpunkte geltend gemacht und würde ersuchen, daß man vom Außenministerium aus diese Forderungen entsprechend vertritt. Wenn sie nicht durchzusetzen sind, wird man allerdings nachgeben müssen. Wenn es dazu kommt, daß Delegationen für diese Frage nach London mitgenommen werden, würde ich bitten, auch einen Vertreter des Unterrichtsressorts zuzuziehen.



BM Dr. Gruber entgegnet, daß Gesandter Leitmaier ohnehin mit dem Sektionschef des Unterrichtsministeriums Dr. Zeissl gesprochen habe, der mit dem Unterrichtsministerium diesbezüglich in ständiger Fühlung stehe. Der Minister unterstreicht die Ausführungen des Bundeskanzlers, so rasch wie möglich zu einem Abschluß dieser Verhandlungen zu kommen. Es sei bereit, den Versuch zu unternehmen, Verbesserungen des Vertragstextes zu erreichen, wenn aber die Gefahr einer Verschleppung bestehe, solle man der Delegation in London die Annahme des Textes empfehlen.

BK: Ich kann annehmen, daß der Ministerrat dieser Argumentation des Kollegen Dr. Gruber zustimmt, daß in diesem Sinne vorgegangen werden soll.

BM Dr. Hurdes verlangt neuerlich, daß auch ein Vertreter des Unterrichtsministeriums beigezogen werde, wenn eine Delegation nach London entsendet wird.

BM Dr. Gruber erklärt, die Entscheidung darüber sei Sache des Ministerrates. Er habe nichts dagegen.

BK: Ich habe einen gewissen Horror vor der Entsendung von Delegationen.

Der Ministerrat beschließt, daß

- a. zu trachten ist, raschest zu einem Abschluß der Verhandlungen über die Minderheitsbestimmungen zu kommen;
- b. Vertreter der Bundesländer zur Teilnahme an den Verhandlungen möglichst nicht, allenfalls jedoch die zuständigen Landeshauptmänner mit Beratern heranzuziehen sind und
- c. im Falle der Entsendung einer Delegation dieser auch ein Vertreter des BM f. Unterricht beigegeben ist.

## DOCUMENT THREE

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Austrian Cabinet Figl II, Ministerrat 211 11 June 1950,  
ÖStA, AdR, BKA.

### Tagesordnungspunkt 1

Zu der vom BK verlesenen, in Abschrift beiliegenden Mitteilung betr. den Tag der Kärntner Volksabstimmung<sup>8</sup> entwickelt sich folgende Debatte:

BK: Wir haben uns schon einmal mit der Angelegenheit befaßt und einen entsprechenden Zuschuß beraten. Damals wurde gesagt, daß eine finanzielle Leistung des Bundes nur in Frage kommt, wenn Kärnten die von ihm geschuldeten Bundesgelder herausgibt. Der BM für Finanzen hat sich eingehend mit der Sache befaßt, wie sich aus seiner Mitteilung ergibt. Ich bringe die Sache nun deshalb zur Sprache, weil die Zeit herankommt, in der sie spruchreif wird. Manche Kollegen werden nicht da sein. Die Summe, die Kärnten verlangt, ist unmöglich, nämlich sage und schreibe nicht mehr und nicht weniger als 165 Mill. Schilling. Sie wollen sie für Straßen-, Brücken- und Schulbauten, sowie für ein Jubiläum in ganz Süd-Kärnten haben. Das ist ein Ding der Unmöglichkeit. Man darf nicht vergessen, daß auch noch das Burgenland kommen kann und ein 30 jähriges Jubiläum feiern will. Süd-Steiermark hat sich ja auch schon gemeldet.

BM Helmer: Na und Niederösterreich?

BM Dr. Gruber: Vorarlberg muß doch auch etwas kriegen, weil sie bei uns geblieben sind.

BK: Aus diesem Grunde informiere ich den Ministerrat. In Oktober wird jedenfalls etwas geschehen müssen. Wir werden ja nur ein paar Millionen hergeben können.//6 Wenn die Kollegen unten interviewt werden, würde ich ersuchen, daß sie entsprechend Stellung nehmen.

BM Helmer: Es ist anzunehmen, daß sie interviewt werden.

BK: Das ist gewiß schwierig. Mein Akt ist bereits so groß.

BM Helmer: Das kann man ihnen ja mitteilen, daß der Akt so groß ist.

BM Dr. Gruber: Es gibt auch noch einen anderen Grund. Das Verhältnis zu Jugoslawien bessert sich von Tag zu Tag. Es besteht begründete Aussicht, daß wir zu einer Atmosphäre des Vertrauens, vielleicht sogar zu freundschaftlichen Beziehungen gelangen. Unser Gesandter in Jugoslawien hat dringend gebeten, der Feier keinen chauvinistischen Charakter zu geben.<sup>9</sup> Wir sind die beati possedentes,

<sup>8</sup> Beilage C, not printed

<sup>9</sup> Braunias (Austrian Envoy, Belgrad) to Bundeskanzleramt, Auswärtige Angelegenheiten, 4 March 1950, ÖStA, AdR, BKA AA/pol-50/Jugoslawien 2/120.228-122.117.

die anderen aber die Verlustträger. In dieser Lage empfiehlt es sich nicht, irgend ein großes Geschrei zu machen. Beide Parteien sollten darauf einwirken, daß die Sache etwas gebremst wird. Wenigstens darf in der ganzen Wortführung nicht gegen Jugoslawien Stellung genommen und keine aggressive Note angeschlagen werden. Ich werde Gelegenheit haben, morgen in Kärnten etwas Wasser auf die heißen Köpfe zu gießen, aber nur im gewissen Sinn und ohne daß man die Feier einzustellen braucht.

St. Sekr. Graf: Die Vergleiche mit den anderen Bundesländern sind mehr als fehl am Platz.

BK: Beim Burgenland treffen sie zu.

St. Sekr. Graf: Man vergißt, daß in Kärnten Kämpfe und eine Volkstimmung stattgefunden haben. Das trifft weder auf die Südsteiermark, noch auf Niederösterreich zu, schon gar nicht auf Vorarlberg.

BK: Die Lage der 14 Gemeinden in Niederösterreich an der tschecho-slowakischen Grenze ist auch nicht zu verkennen.

St. Sekr. Graf: Das ist doch etwas ganz anderes. Wir können heute Kärnten nicht plötzlich bagatellisieren.//7 Daß die Höhe der Forderung nicht ernst zu nehmen ist, dürfte hoffentlich den Kärntnern selbst klar sein. Sie wollen vor allem einen großzügigen Ausbau. Man wird auch nicht verhindern können, daß sie einen möglichst großen Tamtam machen. Richtig ist, daß bei den offiziellen Reden Mäßigung herrschen muß. Die richtige Linie wird schon seit Monaten eingehalten. Nur einzelne VdU-Abgeordnete haben die anderen zu Äußerungen verleitet, die nicht zweckmäßig waren. Wie im Jahre 1930 wird man Kärnten jetzt mit einer Summe abfinden müssen. Ich glaube, daß der Handelsminister und andere Minister die Zusage machen könnten, daß die Kärntner Wünsche berücksichtigt werden. Der Vizekanzler oder BM Helmer könnten aufmerksam gemacht werden, daß die Kärntner Vertreter beider Parteien vorsprechen wollen. Es wäre zweckmäßig, sich auf die Antwort einzurichten. Auf keinen Fall sollten Abgeordnete des VdU beigezogen werden. Ich möchte den Bundeskanzler und den BM für Finanzen bitten, doch sich vor Augen zu halten, daß man einen Betrag zur Verfügung stellt, der im Werte valorisiert der Zuwendung vom Jahre 1930 entspricht.

BK: Von einer Bagatellisierung kann keine Rede sein. Gegen diesen Ausdruck muss ich mich verwahren.

St. Sekr. Graf: Niederösterreich und Vorarlberg können nicht zum Vergleich herangezogen werden.

BK: Wenn ich mir der Wichtigkeit dieser Sache nicht bewußt wäre, hätte ich nicht so einen Akt angesammelt und hätte auch nichts gesagt. Ich bin nur der Meinung, daß 165 Mill. zu viel sind und daß es auch andere Teile von Österreich gibt, die zu berücksichtigen sind. Die Gemeinden in Niederösterreich haben es auch nicht leicht.

St. Sekr. Graf: Haben die Kärntner nichts gemacht?

BM Ing. Waldbrunner: Den Widerstand leistet ja BM Margaretha.

BM Helmer: Ich bin der Meinung, daß man die 30-Jahrfeier unbedingt veranstalten muß und daß es nur darum geht, die Form zu finden, die keinen Anstoß erregt. Bei verschiedenen Gelegenheiten haben wir für Kärnten schon etwas gemacht. Zweimal haben wir eine Maschinenhilfe gegeben. Bei der Herausgabe einer Marke haben wir 2 oder 3 Mill. Schilling vorgestreckt. Ich weiß, //8 daß Marken nicht mehr so viel einbringen, weil die Bevölkerung jetzt etwas anderes kaufen kann als Briefmarken. Vielleicht könnte man eine Stiftung machen, etwas Bleibendes, wozu immerhin gewisse Mittel beigetragen werden können. Was die Frage nach der Berechtigung der Leistung betrifft, die man gegenüber dem Gebiete schuldig ist, möchte ich nur sagen: schlechter als N.Ö. und Burgenland und Teile von Wien wegkommen, kann es schon nicht gehen. Denn diese sind von der ERP-Hilfe fast ausgeschlossen; wenn überhaupt, so erhalten sie Tropfen.

St. Sekr. Graf: Auch das Abstimmungsgebiet kommt nicht so dran. Es besteht eine geschlossene Front.

BM Helmer: Ich mache auf folgenden Vorfall aufmerksam: von den ERP-Stellen wird verlangt, daß die auf ihren Mitteln geförderten Bauten durch Tafeln mit Aufschriften gekennzeichnet werden. Wie das Landesarbeitsamt in Lilienfeld meldet, mußten im Traisental Arbeiten eingestellt werden, bei denen 200 Leute beschäftigt waren. Die sowjetische Kommandantur hat die Einstellung wegen dieser Tafeln verlangt. Erst als die Tafeln beseitigt waren, konnten die Arbeiten wieder aufgenommen werden. In Kärnten sollte eine Stiftung gemacht werden, was eine bleibende Sache ist.

St. Sekr. Graf: Ich würde eine praktische Lösung vorschlagen, nämlich, daß man sich mit der Kärntner Landesregierung zusammensetzt und mit ihr das Programm abstimmt. Sie erwarten sich vielleicht mehr als möglich ist. Ich bin mit ihnen immer sehr vorsichtig umgegangen. Es könnten sich 2 oder 3 Minister mit 2 oder 3 Leuten aus Kärnten beraten.

BK: Der Wille zu einer Lösung ist seit April vorhanden. Kärnten hat auch einen Teil der Schuld an den Bund zurückgezahlt.

BM Ing. Waldbrunner: Worüber sie sich ärgern, weil sie mehr gezahlt haben, als sie jetzt bekommen sollen.

BK: Wir werden schon einen Weg finden, daß sie etwas kriegen.

BM Ing. Waldbrunner: Es wäre nicht notwendig, daß man ihnen weniger gibt, als sie zurückgezahlt haben. //9

BK: Wir werden sehen.

Der Ministerrat billigt sohin den vom Bundeskanzler vorgetragenen Standpunkt und empfiehlt, mit den Kärntner Vertretern der beiden Parteien das Programm festzulegen, wobei auf die Vermeidung jedweder aggressiver Noten bei den Veranstaltungen Bedacht zu nehmen ist.

Rebeka Mesarić Žabčić, Magdalena Vrbanec

## Iseljenice/povratnice u 21. stoljeću – percepcija povratka u Hrvatsku

U radu se analiziraju migracijska iskustva petero iseljenica/povratnica iz različitih hrvatskih regija, koje su tijekom migracijskog procesa istovremeno kroz individualnu, obiteljsku, ali i kroz prizmu društvene razine bile uključene u proces vanjske migracije po uzoru na teoriju društvenih mreža po kojoj migranti koriste zajedničke mreže interesa koje nadilaze državne granice. U radu će se prikazati kako pripremljenost za povratak ne ovisi samo o namjeri i želji za povratkom u zemlju porijekla već i o stvarnoj i aktualnoj spremnosti pojedinca. Također stupanj pripremljenosti povratka osim vlastitih migracijskih iskustava ovisi i o percipiranju institucijskih, političkih i gospodarskih kretanja u zemlji porijekla. Pozitivan razvoj za domovinu dogodit će se tek kada se povratak realizira u trenutku koji je optimalan za povratak pojedinca. Metodom usmenog kazivanja potvrđuje se teza kako visoki stupanj pripravnosti uvjetuje optimalan povratak.

**Ključne riječi:** iseljavanje, vanjska migracija, povratne migracije, povratnice, poduzetništvo.

## Female Migrants/Returnees in the 21<sup>st</sup> Century – The Perception of Returning to Croatia

*This paper is based on the migration experience of five female migrants/returnees from different Croatian regions. During their migration process they were at the same time on the individual, family and social level involved in the process of migration as in model of social network theory. According to this theory migrants use common networks of interests that span over national borders. The paper will show how preparedness for return depends not only on the intention and desire to return to their country of origin, but depends on the individuals current and actual readiness. Except migration experiences, the degree of readiness to return also depends on the migrants perception of institutional, political and economic trends in the country of origin. A positive impact on the homeland will occur only when the return is realized in the moment that is optimal for the individuals return. By using the oral history method, the hypothesis that a high degree of readiness determines the optimal return is confirmed.*

**Keywords:** emigration, external migration, return migration, female returnees, entrepreneurship.

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## Ženske migrantke/povratnice v 21. stoletju – perpcija vraćanja v Hrvasko

Izraz povratne migracije se ponavadi nanaša na migracijski proces, v katerem se ljudje po daljšem obdobju življenja v tujini odločijo za vrnitev v domovino. Ta članek temelji na izseljenski izkušnji petih ženskih migrantk/povratnic iz različnih predelov Hrvasko. Med migracijskim procesom so bile na individualni, družinski in družbeni ravni vpletene v proces migracije kot model teorije družbene mreže. Po tej teoriji izseljenci – da bi si zagotovili ustrezne pogoje za vrnitev – uporabljajo skupne interesne mreže, ki segajo onkraj nacionalnih meja. Članek na osnovi teh primerov opisuje, kako pripravljenost za vrnitev ne zavisi samo od namena in želje po vrnitvi v domovino, ampak predvsem od trenutne in dejanske posameznikove pripravljenosti. Ta zavisi tudi od njegove percepcije institucionalnih, političnih in ekonomskih razmer v domovini. Izseljenčev povratek bo v domovini naletel na pozitiven odziv le, če bo do njega prišlo v optimalnem trenutku. Ob uporabi zgodovinske metode ustnega pripovedovanja migracijske zgodbe ženskih migrantk/povratnic potrjujejo hipotezo, da je za optimalen povratek nujna visoka stopnja pripravljenosti.

**Ključne besede:** izseljenstvo, zunanje migracije, povratne migracije, ženske povratnice, podjetništvo.

### 1. Iseljništvo i povratništvo Hrvatske u novijoj povijesti

Proces iseljavanja hrvatskoga stanovništva s određenim oscilacijama kontinuirano traje od sredine druge polovine 19. stoljeća, ponajviše zbog ekonomskih, političkih i sigurnosnih razloga. U prvom masovnom valu iseljavanja od 1880-ih pa sve do Prvoga svjetskoga rata primarno odredište migranata bile su Sjedinjene Američke Države, a u međuratnom razdoblju zemlje Južne Amerike, Australija, Novi Zeland i Kanada (Čizmić i dr. 2005, 12, 14–15, Mesarić Žabčić 2012, 207–213). Nakon Drugoga svjetskoga rata iseljavanje hrvatskoga stanovništva usmjerilo se prema europskim zemljama, posebice od 1960-ih godina kada stanovništvo masovno odlazi na rad u inozemstvo te 1990-ih tijekom Domovinskog rata.

Proces iseljavanja uvijek je bio praćen, iako u manjem omjeru, povratnim kretanjima stanovništva. Dok su raniji, uglavnom prekomorski valovi iseljavanja iz Hrvatske imali trajniji karakter, suvremeniji migracijski valovi druge polovine 20. stoljeća, primarno usmjereni u zapadnoeuropske zemlje, rezultirali su većim brojem povratnika (Peračković 2006, 482). Više je razloga tome: relativna geografska blizina zemlje porijekla i zemlje rada, rotacijska politika zapošljavanja radnika u inozemstvu, državne mjere za stimuliranje povratka, uvjerenost u privremeni karakter radne migracije, održavanje transnacionalnih veza s domovinom, razvoj prometne i komunikacijske tehnologije. Domovinski rat u Hrvatskoj

početkom 1990-ih godina potaknuo je novo iseljavanje stanovništva, ali zbog stroge imigracijske politike zapadnoeuropskih zemalja većina je bila primorana na povratak (Čapo & Jurčević 2014, 18).

Hrvatska ne raspolaže preciznim statističkim podacima o povratnim migracijama pa tako ni pouzdanim podacima o broju povratnika nakon uspostave državne samostalnosti. Jedna od relevantnih procjena je ona bivšeg Ministarstva useljeništa prema kojem je tijekom 1990-ih godina povratak u Hrvatsku ostvarilo oko 40.000 iseljenika (Cetinić 2000 prema Čapo & Jurčević 2014, 19). Prema *Popisu stanovništva iz 2001. godine*, s rada u inozemstvu u RH, neovisno o trenutku povratka, vratilo se 111.352 povratnika, najviše iz Njemačke (75.187), Austrije (9.173) i Švicarske (6.076).

Nakon Drugoga svjetskoga rata sve do početka 1960-ih godina zbog zaptvorenosti jugoslavenske granice svako iseljavanje bez odobrenja vlasti smatrano je ilegalnim. Zbog ekonomskih i političkih razloga Jugoslavija je u prvoj polovini 1960-ih godina otvorila svoje državne granice te amnestirala prijašnje ilegalne emigrante, što je građanima omogućilo legalno iseljavanje prema razvijenijim državama. U poratnom razdoblju zapadnoeuropske zemlje doživjele su snažan gospodarski rast koji je tijekom 1950-ih godina premašio domaće resurse radne snage. Rješenje se pronašlo uvođenjem politike zapošljavanja radnika iz manje razvijenih zemalja prema modelu privremene i cirkulirajuće radne migracije (Nejašmić 2005, 146). Njezinu suštinu činio je rad na određeno vrijeme, uz kratkoročan radni ugovor i ograničena radna prava što je, uz izdavanje privremenih boravišnih dozvola, strane radnike trebalo potaknuti na brz povratak kući (Nejašmić 2005, 146). Najmasovniji odlazak na privremeni rad u inozemstvo, kako je radna migracija u Jugoslaviji službeno prozvana, zabilježen je na razmeđu 1960-ih i 1970-ih godina. Hrvatski radnici brzo su se i masovno uključili u aktualne tokove radne migracije, a njihovo glavno odredište postala je Savezna Republika Njemačka koja je od europskih zemalja prednjačila po broju strane radne snage (Heršak 1993, 282–283). U njoj se razvio pojam *Gastarbeiter* (gostujuć radnik) kojim se definirao status stranih radnika kao dobrodošle radne snage od koje se očekuje naporan rad i odlazak kada više ne bude potrebna rastućem gospodarstvu razvijenih zemalja (Novinščak 2012, 3).

Da se radi o privremenoj migraciji radne snage koja će se vratiti u domovinu jednom kad nestane potrebe za njenim radom, vjerovale su i propagirale kako zemlje primitka, tako i zemlje slanja. Njihovo mišljenje dijelila je i većina radnika koja se nadala dobroj zaradi tijekom kratkotrajne radne migracije. U početku je model privremenih, cirkulirajućih migracija funkcionirao jer se pored intenzivne imigracije stranih radnika u razvijene europske zemlje odvijao i njihov povratak u domovinu (Nejašmić 2005, 146). Budući da u kratkom roku radnici nisu uspjeli dovoljno uštedjeti, a poslodavcima nije odgovaralo stalno obučavanje nove radne snage, omogućeno je stjecanje petogodišnje radne dozvole što je imalo za posljedicu destimulaciju povratka te mogućnost spajanja obitelji i druge oblike

lančane migracije (Mesić 2002, 102). Nakon što je tih ranih 1970-ih godina za-  
pošljavanje migrantskih radnika u razvijenim zapadnoeuropskim zemljama  
dostiglo vrhunac, uslijedila je 1973. godine naftna i gospodarska kriza što je  
posljedično zaustavilo regrutaciju nove strane radne snage. U tom početnom  
razdoblju značajno je smanjena imigracija te su pojačani povratnički valovi  
radnika u zemlje porijekla. Iako je imigracija postala ograničena i striktna, broj  
imigrantske populacije postepeno se povećavao uslijed spajanja obitelji stranih  
radnika u zemlji rada (Mesić 1988, 372, Mesarić Žabčić & Njegač 2008, 127–  
145). Tijekom 1980-ih godina vanjska migracija Hrvatske nastavljena je, iako u  
znatno manjem opsegu zbog ograničenog dotoka radne snage u većini razvijenih  
europskih zemalja. Protokom vremena privremeni boravak migranata u ino-  
zemstvu pretvorio se u imigraciju, a status privremene radne snage zamijenilo je  
pravo na trajan boravak u zemlji useljenja (Novinščak 2012, 4).

Plan hrvatskih ekonomskih migranata o kratkotrajnoj migraciji i brzom za-  
brzo se pokazao nerealnim pa se boravak u inozemstvu produžio, a povratak na  
neko vrijeme odgodio. U ranoj fazi ekonomske migracije odgodu su često moti-  
virali materijalni razlozi, a potom obiteljske prilike, životne okolnosti te društve-  
no-gospodarsko stanje i mogućnosti u domovini i zemlji rada (Čapo 2014, 285–  
286). S vremenom, kako se povratak opetovano odgađao, privremeni karakter  
radnih migracija pokazao se iluzijom za mnoge migrante (Novinščak 2012, 4).  
Oni su ipak manje-više nastavili promišljati i/ili pripremati svoj konačan povratak  
te svojim aktivnostima održavati višestruke veze i odnose s domovinom. U  
skladu s namjerom i planiranjem povratka strukturirao se i njihov individualni  
i obiteljski život.

Dugo vremena smatralo se da je povratak u domovinu prirodni završetak  
radne migracije (Novinščak 2012, 1, Nejašmić 1981 prema Peračković 2006,  
478). Da će u bližoj ili daljoj budućnosti realizirati povratak, bila je uvjerenja i  
većina radnih migranata (Dustmann i dr. 1996, 240). Umjesto toga, unatoč svim na-  
porima i odricanjima, prva generacija hrvatskih ekonomskih migranata deset-  
ljećima je odgađala povratak. Ušavši u posljednju fazu svog radno aktivnog života,  
većina zaključuje da je razumno završiti svoj dugogodišnji radni ciklus u zemlji  
primitka te se vratiti u domovinu nakon umirovljenja. Iako je dio njih nakon ulaska  
u mirovinu ostvario potpun povratak, kakav su predviđali i pripremali tijekom  
svog radnog vijeka, sve je više onih koji se odlučuju za djelomičan povratak uz  
nastavak transnacionalnog načina života kakvog su ranije prakticirali, provodeći  
dio godine u inozemstvu, a dio u domovini (Čapo Žmegač 2005, 267–268). U  
skladu s navedenim, povratak u smislu jednosmjernog i definitivnog nastanjanja  
zemlje porijekla pojmovno ne odgovara migracijskom kretanju dijela hrvatskih  
ekonomskih migranata koji su nakon prividnog povratka nastavili cirkulirati u  
transnacionalnom prostoru (Čapo 2014, 288).

Prema suvremenim migracijskim teorijama povratak je samo jedan, poten-  
cijalno reverzibilan korak, ne nužno kraj migracijskog procesa. Siro i složeniji



pristup povratku proširuje mogućnost njegova istraživanja, uvažavajući pritom suvremene migracijske trendove. Povratak možemo definirati kao migracijski proces u kojem se osobe, nakon određenog vremena provedenog izvan matične domovine, ponovno u nju vraćaju. U praksi povratak ne mora nužno biti trajan čin, već može imati oblik stalnog kretanja između dviju država (Čapo 2014, 288). Neovisno o njegovoj formi, stvaranje i donošenje odluke o povratku dugotrajan je i složen proces u kojem migranti pragmatično odmjeravaju prilike i mogućnosti što im se nude u obje zemlje (Čapo Zmegač 2010, 24).

## 2. Međunarodne teorije o povratnim migracijama

Povratnim migracijama bavi se nekoliko migracijskih teorija koje s različitih polazišta i analitičkih razina doprinose njihovom boljem teorijskom poznavanju. Već su desetljećima predmetom znanstvenih istraživanja, a naše znanje o njima još je uvijek nedostatno, kako zbog nedostatka pouzdanih kvantitativnih podataka, tako i njihove kompleksne i heterogene prirode koja otežava statistička praćenja i komparacije (Cassarino 2004, 253, OECD 2008). Neovisno o pristupu, migracijske teorije međusobno se nadopunjuju i pridonose boljem razumijevanju povratnih migracija i migracijskog procesa u cjelini (Cassarino 2004, 255, Mesić 2002).

Teorije kao što su neoklasična ekonomija i nova ekonomija radne migracije (NERM), analiziraju međunarodne migracije kroz ekonomske čimbenike u okviru tržišnih zakona (Predojević-Despić 2010). Prema neoklasičnom pristupu, migranti teže integraciji i dugoročnom, ako ne i trajnom useljenju u zemlju imigracije, stoga povratak može biti samo rezultat neuspješnog migracijskog iskustva (De Haas i dr. 2015). Sa suprotnog stajališta polazi teorija NERM-a koja povratak smatra prirodnim ishodom uspješne migracije tijekom koje je migrant ostvario svoje ciljeve zbog kojih je u prvom redu i odlučio migrirati (De Haas i dr. 2015). Strukturalna perspektiva povratnih migracija nadilazi polarizacijsku paradigmu dviju prethodnih teorija te uvodi nove čimbenike potrebne za bolje razumijevanje fenomena povratka – gospodarske, političke i društvene okolnosti zemlje porijekla koje utječu na migrantovo povratničko iskustvo i na njegovu mogućnost da bude nositeljem razvoja i promjena (Cassarino 2004, 257–261). Ističu da je njihov utjecaj ipak ograničen jer okolnosti u zemlji porijekla ne idu u prilog modernizacijskim inicijativama povratnika koji su za vrijeme migracije izašli iz tradicijskog okvira zemlje porijekla i nisu ostali povezani s njenim društvom. Novije migracijske teorije, transnacionalizam i teorija društvenih mreža, povratak promatraju kroz kompleksniji i širi kontekst te suprotno od strukturalista ističu da migranti unatoč velikoj geografskoj udaljenosti uspostavljaju i održavaju mnogobrojne društvene odnose sa zemljom porijekla (De Haas 2008). Također, za razliku od ostalih teorija, povratak percipiraju reverzibilnom radnjom, a ne konačnim završetkom migracijskog ciklusa, iako

teorija društvenih mreža dozvoljava perspektivu trajnog povratka. Smatraju da društvene i ekonomske veze koje migranti održavaju između zemlje porijekla i zemlje primitka imaju velik utjecaj na odluku i pripremu njihova procesa povratka.

## 2.1 Transnacionalizam

Transnacionalizam svojim teorijskim i analitičkim pristupom pokušava odgovoriti na suvremene migracijske trendove – pojačano migracijsko kretanje migranata i njihovo snažno povezivanje s domovinom (Glick Schiller i dr. 1995, Vertovec 1999). Migranti redovitom razmjenom dobara, usluga i informacija te fizičkim kontaktima stvaraju i održavaju stalne veze i odnose s društvom zemlje porijekla (Guarnizo & Smith 1998, Portes i dr. 1999). Takvom društvenom interakcijom stvara se jedinstveni transnacionalni društveni prostor/polje koji nadilazi granice nacionalnih država i povezuje migrantovo društvo porijekla i društvo primitka (Glick Schiller i dr. 1999, 26). Transnacionalnim povezivanjem razvijaju se vrlo snažne prekogranične političke, gospodarske i društvene mreže u kojima je prisutan osjećaj zajedništva i solidarnosti zbog srodstva ili zajedničkog nacionalnog ili etničkog porijekla (Faist 2008, 5–6).

Pod utjecajem transnacionalnih aktivnosti migranti razvijaju složene i fluidne identitete što im omogućuje istovremenu povezanost i prilagodbu na oba društva (Glick Schiller i dr. 1999, 36). Njihov identitet te subjektivni utisci o domovini utječu na odluku o povratku, dok im transnacionalna mobilnost omogućuje bolju pripremu i organiziranje povratka (Cassarino 2004, 262). Ideja o povratku znatno strukturira život migranata u iseljeništvu, stoga odluka o tom koraku nije nagla i nepromišljena već vrlo složena (Čapo Žmegač 2010, 24). Migranti ciljano pripremaju svoj povratak i reintegraciju redovitim posjetima i drugim oblicima povezivanja s domovinom pa mobilnost postaje integralni dio njihova života (Čapo & Jurčević 2014, 24). Povratak će realizirati ukoliko su stekli dovoljno resursa te povoljno ocijenili prilike u domovini (Cassarino 2004, 264).

Velika zasluga transnacionalne teorije je pristup migracijama kao kompleksnom i trajnom procesu s preseljenjem i povratkom kao fazom, a ne jedno-smjernim i konačnim migracijskim činom (Colic-Peisker 2006, 211). Teorija nadilazi analitički okvir istraživanja trajnih, fizičkih povrataka proširivši koncept kroz istraživanje priprema za njegovu realizaciju (Čapo & Jurčević 2014, 29). Nedostatak koji kritičari ističu je nemogućnost dublje analize motivacije za povratkom te ne smatraju uvjerljivim da povezanost s vlastitom migrantskom zajednicom u zemlji domaćina može povratnicima olakšati reintegraciju i prilagodbu društvu zemlje porijekla (Cassarino 2004, 265).

## 2.2 Teorija društvenih mreža

Za razliku od transnacionalne teorije, ova teorija osnovu za povezivanje u društvene mreže vidi u zajedničkim interesima i postignutim migracijskim iskustvima (Cassarino 2004, 265). Zajednički interes presudan je faktor koji potiče formiranje društvenih mreža i razmjenu uzajamno vrijednih materijalnih i nematerijalnih resursa (Kuschminder 2013, 25, Faist 2000). Migranti, nemigranti i bivši migranti međusobno se povezuju u prekogranične društvene mreže na temelju rodbinskih, prijateljskih ili lokalnih veza (Massey i dr. 1993, 448).

Povezanost s nekim tko je u emigraciji ili ima migrantsko iskustvo znatno povećava vjerojatnost uključivanja u međunarodne radne tokove (Mesić 2002, 352, Massey i dr. 1993, 448–449). Isto tako, održavanje prekograničnih interesnih mreža osigurava i podržava povratak migranata jer pripadnost mreži povećava dostupnost sredstava i informacija potrebnih za njegovu realizaciju. Na odluku o povratku utječu okolnosti i mogućnosti u zemlji porijekla te količina vlastitih resursa i resursa koji proizlaze iz mreža zajedničkih interesa. Povratnici nastavljaju održavati veze s mjestom i društvom zemlje rada, što može pružiti poticaj i podršku različitim oblicima investiranja te omogućiti daljnji pristup potrebnim resursima (Cassarino 2004, 265, Kuschminder 2013, 30). Financijski i ljudski kapital – vještine, znanje, iskustvo, poznanstva i vrijednosti stečene u inozemstvu – povratnik može uložiti u produktivan posao/projekt kako bi osigurao i ostvario što uspješniji povratak i reintegraciju (Cassarino 2004, 269).

Teorija društvenih mreža ponudila je širi analitički okvir te omogućila dublji istraživački uvid u njihovu kompleksnost. Ipak, kritika ističe da prijašnja migracijska iskustva i sama pripadnost mreži ne objašnjavaju u potpunosti inicijativu povratka te ne osiguravaju njegovu uspješnost i reintegraciju (Cassarino 2004, 266). Analiza mora obuhvatiti i društveni kapital koji utječe na odluku o povratku te pridonosi njegovoj uspješnoj implementaciji i društvenoj reintegraciji pojedinca. Sastoji se od različitih resursa ugrađenih i dostupnih putem društvenih veza ili mreža (Kuschminder 2013, 25), a u zemlji porijekla od resursa koje pruža povratnikova uža i šira obitelj. Na tome tragu i nova ekonomska teorija migracije (Stark & Bloom 1985, Stark 2003) ukazuje da se odluke o migraciji vežu uz kućanstva, a ne uz pojedinca. To se novo otkriće podudara s promatranjem migracijskog procesa koji karakterizira vidljive obiteljske obrasce, što su zaključili i ekonomisti (Mincer 1978) i demografi (Castro & Rogers 1983).

## 2.3 Konceptualni pristup povratku prema Cassarinu

U okviru teorije društvene mreže razvijen je novi konceptualni pristup povratku koji omogućuje dublju analizu i bolje razumijevanje povratnih migracija.

Cassarino (2004, 270–276) ističe da promjene u međunarodnim migracijskim tokovima, kao što su povećana diversifikacija migrantskih kategorija, liberalizacija tržišta mnogih emigracijskih zemalja, povećana transgranična pokretljivost te bolji protok informacija uz jačanje prekograničnih veza, upućuju na potrebu za širim pristupom koji bi produbio naše znanje o povratnom fenomenu. Povratnici danas čine vrlo heterogenu skupinu ljudi, s obzirom na različita migracijska iskustva, trajanje boravka, pravni status u inozemstvu, povratnu motivaciju i mobilizaciju resursa, stoga Cassarino (2004) pripisuje različitim tipovima migranata i različiti proces povratka i reintegracije te mogući utjecaj i razvojni potencijal na zemlju porijekla.

Ističe da preduvjet za uspješan povratak i pozitivan utjecaj na domovinu ovisi o njegovoj pripremi za koju su neophodni resursi, vrijeme i spremnost migranata na taj korak. Naime, ukoliko je povratnik spreman i želi se vratiti, ostvarit će se bolja priprema nego u slučaju prisilnog povratka. S obzirom na mobilizaciju resursa i stupanj pripremljenosti, migranti mogu ostvariti različiti povratak i reintegraciju. Mobilizacija resursa obuhvaća materijalne i nematerijalne resurse prikupljene za vrijeme migracije i resurse stečene prije migriranja (društveni kapital), a koji su odraz migracijskih iskustava i migrantove društvene pozadine. Pripremljenost migranata ne ovisi isključivo o želji i namjeri, već i o stvarnoj i aktualnoj spremnosti na povratak u smislu prikupljenih potrebnih resursa i povoljno percipiranih okolnosti u zemlji porijekla. Tek kada se povratak realizira u trenutku u kojem je migrant i stvarno za taj povratak spreman, dogodit će se pozitivan razvoj za domovinu.

Takav analitički pristup uzima u obzir činjenicu da migranti u svako doba mogu objaviti svoju namjeru glede povratka, ali im možda u danom času i s obzirom na okolnosti u zemlji porijekla ili zemlji prihvata neće biti moguće mobilizirati odgovarajuće resurse potrebne za dobru pripremu. Ovo objašnjava neuspjeh u procesu reintegracije čak i u slučajevima kada je do povratka došlo dobrovoljno. S druge strane pristup nudi mogućnost uvođenja prisilne migracije u analizu: osobe koje nemaju namjeru vratiti se kući i sve svoje snage koriste za daljnji boravak u zemlji prihvata neće nikada ni postići odgovarajući nivo za pripremu povratka te tako predstavljaju vrlo mali inovacijski potencijal za domovinu.

U odnosu na vezu između povratne migracije i razvoja u zemlji porijekla, Cassarino (2004) vidi razlike u načinu mobilizacije resursa i stupnju pripremljenosti. Ukazuje da stupanj pripremljenosti ne ovisi samo o vlastitim iskustvima stečenim u migraciji, već i o percipiranju institucijskih, političkih i gospodarskih kretanja u zemlji porijekla. Biti pripremljen ne ovisi samo o uvjetima u zemlji prihvata, već i o uvjetima koji vladaju u zemlji porijekla, pa tako i uspjeh ili neuspjeh reintegracije. Teza koja je u tom smislu postavljena glasi: čim je viši nivo pripremljenosti, koja opet ovisi o voljnosti i spremnosti, to će i pozitivni učinci za zemlju porijekla biti vjerojatniji.

### 3. Metodologija

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Značajan dio hrvatskih radnih migranata dugo priželjkivani povratak u domovinu ostvario je tek u razdoblju svog umirovljenja (Novinščak 2012, 9). Ipak, dio se migranata vratio u ranijoj životnoj fazi, kada je bio radno aktivan i spreman na izazove reintegracije. Upravo su takvi povratnici u fokusu ovoga rada čija će migracijska i povratnička iskustva poslužiti za prikaz i analizu teorije društvene mreže i Cassarinova revidiranog pristupa povratnim migracijama. Rad obuhvaća ukupno petero iseljenica/povratnica koje su emigrirale u razvijenije europske države – Njemačku, Švicarsku te Italiju – tradicionalne destinacije hrvatskih migranata u drugoj polovini 20. stoljeća. Sve naše ispitanice su iz različitih regija i županija Republike Hrvatske. Od ukupno pet, dvije imaju sveučilišnu razinu obrazovanja, a ostale tri ispitanice završile su srednjoškolsko obrazovanje. Njihova dob je između 30 i 60 godina. Sve su ispitanice odabrane temeljem preporuke poznanstva i za svih pet ispitanica povratna migracija nije bila jedino iskustvo u migracijskom procesu. Migraciju su realizirale u različitim vremenskim i povijesnim okvirima, od razdoblja 1960-ih kada počinju veliki valovi radnih migracija do početka 1990-ih godina kada iseljavanje uzrokuju ratna zbivanja u Republici Hrvatskoj. Sa svakom ispitanicom proveden je individualni nestrukturirani ili polustrukturirani detaljni intervju tijekom 2014. i 2015. godine kojim su zabilježena njihova migrantska i povratnička iskustva. Intervjui tog tipa koriste se u društvenim istraživanjima ili migracijskim studijama (Milharčić Hladnik 2007, Pajnik & Bajt 2009). Istraživanje se bazira i na metodi usmene povijesti (tzv. *oral history*) kroz snimljene intervju između ispitanica s osobnim migracijskim iskustvom i istraživača kao bilježitelja osobne migracijske priče s događajima i doživljajima (Russell 1999). Osobno migracijsko iskustvo je ujedno i izvor učenja o migracijskom procesu kroz autobiografske momente života naših ispitanica, no iako je to primarni izvor informacija, ne znači i ne treba biti i konačni, testirani i objektivni izvor. To je osobno iskustvo koje kroz priču daju naše ispitanice, stoga je, kao takvu, možemo smatrati i subjektivnom. Komunikacija je s ispitanicama provedena u ugodnoj atmosferi, uz maksimalnu privatnost i obostrano povjerenje. Dovoljno je vremena odvojeno za svaku ponaosob kako bi svaka ispitanica prilikom intervju imala mogućnost razmisliti o postavljenim pitanjima i zatim na njih i odgovoriti.

Ispitanice su tijekom migracijskog procesa, istovremeno kroz individualnu, obiteljsku, i društvenu razinu, bile uključene u proces vanjske migracije po uzoru na teoriju društvenih mreža. Aktivno su sudjelovale i koristile zajedničke prekogranične mreže interesa kako bi pripremile optimalne uvjete za svoj povratak. U radu će se na navedenim primjerima prikazati kako pripremljenost za povratak ne ovisi samo o namjeri i želji za povratkom u zemlju porijekla, već i o stvarnoj i aktualnoj spremnosti pojedinca. Također, na stupanj njegove pripremljenosti osim vlastitih migracijskih iskustava utječe i percipiranje po-

litičkih, gospodarskih i društvenih kretanja u zemlji porijekla. Pozitivan razvoj za domovinu dogodit će se tek kada se povratak realizira u trenutku koji je optimalan za povratak pojedinca.

Rad polazi od hipoteze da priprema migranata na povratak uvjetuje njegovu uspješnu realizaciju i reintegraciju u domovinu. Prema Cassarinu (2004) dva su glavna preduvjeta za takav scenarij – pripremljenost povratka i mobilizacija resursa – prema kojima su prikazani povratnički slučajevi. Metodom usmenog kazivanja iseljenica/povratnica (tzv. *oral history* metodom) potvrđuje se teza kako visoki stupanj pripravnosti uvjetuje optimalan povratak.

#### 4. Životne priče i migrantsko iskustvo hrvatskih povratnica

Sve ispitane povratnice iselile su iz Hrvatske u različitim fazama radne migracije tijekom druge polovine 20. stoljeća: u razdoblju 1960-ih godina kada se iseljavanje legalizira i radne migracije omasovljuju, u razdoblju izbivanja ekonomske krize i zaustavljanja organiziranog regrutiranja u prvoj polovini 1970-ih, u razdoblju 1980-ih kada se smanjuju izlazni migracijski tokovi te početkom Domovinskog rata kada radne migracije zamjenjuje izbjeglištvo. Razlozi emigriranja prvenstveno su ekonomske prirode, od siromaštva, nezaposlenosti ili povremenog zaposlenja, želje za višom zaradom i poboljšanjem životnog standarda do stjecanja kapitala za pokretanje vlastitog posla. Razlozi se djelom isprepliću s osobnom motivacijom kao što je znatiželja i spajanje obitelji ili zbog sigurnosnih razloga usred izbivanja Domovinskog rata. Migrantice su iselile u različitim društvenim aranžmanima, od zajedničkog obiteljskog emigriranja, pridruživanja suprugu na radu u inozemstvu i naknadnog okupljanja obitelji, do samostalne emigracije. Za vrijeme dugogodišnjeg života i rada u inozemstvu pomno su planirale povratak u domovinu. Ostvarile su ga u razdoblju nakon završetka Domovinskog rata tijekom druge polovine 1990-ih i početkom 2000-ih te nakon ulaska Republike Hrvatske u EU 2013. godine. Vratile su se u različitim životnim fazama, većinom u radno aktivnoj dobi, ali i u kasnijim životnim razdobljima, samostalno ili sa svojom obitelji. Povratak je motivirala obitelj u zemlji porijekla, želja za investiranjem i realizacijom poduzetničke ideje, njihov identitet te privrženost životu i društvu u domovini. Stečeni kapital investirale su u biznis, posao kojim se nakon povratka bave (pružanje usluga odgoja i obrazovanja, turizam, ugostiteljstvo, poljodjelstvo).

#### 5. Pripremljenost povratka

Većina migranata iz zemlje porijekla odlazi s predodžbom o povratku, ali unatoč želji i namjeri znatan dio njih trajno ostaje u inozemstvu (Carling i dr. 2015, 3). Takav ishod vrijedi za mnoge hrvatske radne migrante druge polovine 20.

stoljeća, spomenute u uvodnom djelu rada, uvjerene da će tijekom kratkotrajne radne migracije u razvijenijim europskim zemljama ostvariti svoje ciljeve i vratiti se kući. Protokom vremena migranti su nastavili ustrajati u namjeri povratka, istovremeno odgađajući njegovu realizaciju (Čapo & Jurčević 2014, 23). Takav razvoj situacije za većinu je rezultirao trajnim ostankom u inozemstvu ili povratkom u razdoblju umirovljenja, dok se ostatak migranata uspio vratiti ranije, u radno aktivnoj dobi. Takvoj skupini migranata pripadaju naše ispitanice koje su u različitim životnim fazama (od 30-ih godina do razdoblja starije životne dobi) uspjele realizirati svoj povratak. Kao većina migranata, ostale su u inozemstvu duže nego što su prilikom migriranja ili u početnom razdoblju migracije predviđale. Teški životni uvjeti (život na otoku) ili nepovoljne okolnosti u domovini (Domovinski rat) neke od njih su primorali na dugotrajniju migraciju.

Ispitanica 2: “Nikada, pa čak ni u samom početku, nisam razmišljala ostati zauvijek u Italiji, već samo da si zaradim dovoljno novaca pa da se vratim i uložim u svoj posao.”

Ispitanica 4: “Što se tiče našeg ostanka u Švicarskoj, kad smo odlazili planirali smo tamo biti deset godina, a kasnije smo ostali skoro dvadeset godina. Planirali smo samo zaraditi novac i nakon nekog vremena se vratiti kući.”

Nostalgija i želja za povratkom kontinuirano su bile prisutne u mislima migrantica, a o njihovoj snazi najbolje nam svjedoči ispitanica koja je kao djevojčica zajedno s obitelji emigrirala u vrijeme Domovinskog rata.

Ispitanica 5: “/.../ nikada se u Njemačkoj nisam osjećala kao kod kuće. Ne mogu reći da mi je tamo bilo što nedostajalo, mislim u materijalnom smislu, završila sam fakultet, plivala za jedan sportski klub, putovala Europom, no ipak sam se najviše veselila ljetu i dolasku u Hrvatsku. Znala sam, predosjećala da ću se kad-tad vratiti /.../”

Želja i namjera povratka naših ispitanica očitovala se kroz različite oblike transnacionalnih aktivnosti i održavanja višestrukih veza i odnosa sa zemljom porijekla. Kroz svakodnevne životne aktivnosti migrantice su razvijale i njegovale snažne veze sa svojom obitelji, rodbinom i prijateljima u domovini. Povezanost se održavala redovitim fizičkim kontaktima, usmenom komunikacijom, novčanom i materijalnom razmjenom/darivanjem, razmjenom ideja i informacija, ali i emocionalnom brigom za članove svoje obitelji. Jernej (2010, 62) ističe da osnovu transnacionalnih praksi migranata čini upravo obiteljska i rodbinska povezanost i da snažne obiteljske veze uvelike potiču migrante na transnacionalne aktivnosti. Shodno tome, često su ključan razlog njihovoj želji i namjeri povratka.

Ispitanica 3: “Sve smo Božiće i Nove godine provodili u Hrvatskoj, ponekad i Uskrs i ljetne školske praznike, a kada smo se vratili u Njemačku bili smo žalosni i gledali na kalendar kada ćemo ponovno kući gdje su nam bili najmiliji i svi prijatelji.”

Ideja i namjera povratka u zemlju porijekla mogu znatno strukturirati život migranata (Klimt 1989 prema Čapo & Jurčević 2014, 23). Birt Katić (2015, 56) ističe da radna migracija, osim individualnog prosperiteta, može znatno pridonijeti blagostanju obitelji, ali i utjecati na njezinu strukturu i oblik te na odnose među njenim članovima. Namjera i planiranje povratka na mnoge su načine obilježili obiteljski život migranata (Čapo Žmegač 2005). Djeca migrantskih obitelji okupljenih u inozemstvu promišljeno su bila uključena u povratničke planove svojih roditelja i njihove transnacionalne aktivnosti te na razne načine pripremana na povratak u domovinu – upisom u dopunske hrvatske škole u inozemstvu, kako bi boljim poznavanjem materinskog jezika bila olakšana njihova prilagodba zemlji porijekla, čestim posjećivanjem i održavanjem veza s obitelji i rodbinom i sličnim radnjama.

Ispitanica 4: “Često smo putovali doma tako da su djeca imala kontakte s Hrvatskom, mi smo to baš i htjeli, nastojali poticati tako da im ne bude teško kad se budemo vratili doma. U Švicarskoj su odlazili u hrvatsku školu, paralelno s obaveznom /.../”

Zanimljiv primjer o mogućem utjecaju roditelja i njihovih povratnih planova na budućnost njihove djece vidimo u slučaju migrantice čije je dijete u svrhu pripreme za povratak i budući obiteljski biznis – otvaranje privatnog vrtića – završilo u Njemačkoj studij za odgojitelja.

Ispitanica 3: “/.../ planirale (smo) obje raditi u vlastitom vrtiću /.../ Kćer se isto željela vratiti u Hrvatsku, nije baš bila vična sklapanju prijateljstava s Nijemcima, imala je svega par prijateljica tamo, a u Hrvatskoj je imala puno prijatelja s kojima se uvijek družila i dopisivala kada smo bili na praznicima i jako joj se sviđala Hrvatska. Nije nam radila probleme oko povratka /.../”

S druge strane, jedna od čestih posljedica planiranog povratka bila je fizička odvojenost članova obitelji (Čapo Žmegač 2005, 2007). Dio migranata svoj je obiteljski život organizirao transnacionalno, na dvije lokacije smještene u dvije države što je intenziviralo njihovu transnacionalnu mobilnost. Za vrijeme rada u inozemstvu, brigu o djeci često su preuzimali roditelji u zemlji porijekla što se u danom trenutku migrantima činilo kao praktičnije i prikladnije obiteljsko rješenje. Osim pozitivnih učinaka migracije, kao što je poboljšanje ekonomskog stanja obitelji, migracija je mogla prouzročiti i neke negativne pojave kao, na primjer, odvojenost i otuđenje roditelja i djece (Birt Katić 2015, 49).

Ispitanica 2: “/.../ sina su čuvali i odgajali i jedni i drugi roditelji u Hrvatskoj /.../ Zbog djeteta smo svaki vikend dolazili doma jer je tako bilo jednostavnije i bolje za dijete, budući smo suprug i ja radili po cijele dane /.../ Kćer smo isto ostavili na čuvanje bakama i djedovima. Danas mi je jako žao zbog toga jer sam propustila važne momente u njihovom odrastanju, a i djeca su mi kad su odrasla znala to staviti pod nos.”



Transnacionalno organiziran obiteljski život migranata jednim dijelom objašnjava postojanje snažnih veza i odnosa sa zemljom porijekla (Čapo Žmegač 2007, 35), ali se ujedno može sagledati kao posljedica njihove želje i namjere povratka te sastavni dio povratne strategije. Migranti se kroz redovite fizičke kontakte i usmenu komunikaciju s društvom zemlje porijekla pripremaju na povratak i reintegraciju, a njihova im transnacionalna interakcija omogućuje bolju pripremu, organizaciju, a time i realizaciju povratka.

Prema Cassarinu (2004, 271) povratak je potrebno promatrati u širem kontekstu, ne isključivo kao odraz migrantove volje, nego kao dokaz njegove spremnosti na realizaciju istog, uvjetovane dovoljno prikupljenim materijalnim i nematerijalnim resursima te povoljnim okolnostima i stanjem u zemlji porijekla. U tom kontekstu promatrana su migrantska iskustva naših povratnica koje unatoč želji i namjeri nisu bile u mogućnosti ostvariti povratak kako su prvotno planirale. Bilo je potrebno znatno više vremena da dosegnu potrebnu razinu spremnosti.

Novac stečen intenzivnim radom u inozemstvu migrantice su štedjele kako bi sebi i svojoj obitelji osigurale kvalitetniju budućnost, po mogućnosti u domovini. Povratak je u mnogome ovisio o materijalnoj sigurnosti i stjecanju dovoljne količine financijskih sredstava za njegovu uspješnu realizaciju te investiranje i pokretanje biznisa kojim su se migrantice nakon povratka željele baviti. Dok je dio migrantica postepeno krenuo s ulaganjima za vrijeme migracije, većina je štedjela i stala ulagati netom prije ili nakon povratka, u skladu s planovima o njegovoj realizaciji. Financijska i materijalna ulaganja migrantica poticala su transnacionalnu interakciju i povezanost sa zemljom porijekla te reflektirale namjeru povratka i njegovo pomno planiranje. Spremnost migrantica na povratak također je bila pod znatnim utjecajem obiteljskih i životnih prilika (npr. školovanja djece, razvoda i slično).

Ispitanica 4: “/.../ ostali smo duže najviše radi djece jer nam je tako onda odgovaralo zbog njihova školovanja. To nam je bila neka prekretnica. S jedne strane nam je žao što smo ostali tolike godine u inozemstvu jer smo ostali duže nego što smo planirali, s druge nije jer smo ostali radi djece jer nam je tako tada odgovaralo.”

Migrantsko/povratnička iskustva naših povratnica pokazuju da spremnost na povratak ne ovisi isključivo o količini prikupljenih resursa, nego i percipiranju okolnosti u zemlji primitka i porijekla. Migrantice su konstantno procjenjivale prilike i mogućnosti u obje zemlje. Povoljna politička, gospodarska i društvena situacija u zemlji boravka, dobro plaćen posao, život u uređenom društvenom sistemu otežavali su donošenje odluke o povratku i odugovlačili s njegovom realizacijom.

Ispitanica 4: “Bili smo zadovoljni Švicarcima kao poslodavcima, bili su prema nama jako poštene ljudi, kako smo se s njima dogovorili tako je i bilo, nije bilo nekih

nesporazuma, /.../ bili smo zadovoljni /.../ Ugodno smo se osjećali i uklopili se jesmo, živjeli smo u suživotu s ljudima i nismo imali nikakvih problema /.../ Vani ako ste sposobni, ako ste dobar radnik, ako se pokažete, ljudi vas dobro prihvaćaju i to cijene, nije bitno koje si nacionalnosti nego kakva si osoba, tu (u Hrvatskoj) je bitno tko si.”

Ispitanica 5: “Roditelji nisu bili najsretniji odlukom, oni su mišljenja da sam trebala ostati u uređenom sustavu i društvu, ali mene je nešto vuklo, stvarala mi se toplina u duši pri pomisli da bih mogla doći u Hrvatsku /.../ U Njemačkoj sam ostavila pristojno plaćeni posao, nije bio na neodređeno, no ako ste školovani i dobro govorite njemački jezik u Njemačkoj nije teško dobiti posao i ljudi često sele iz grada u grad i cirkuliraju zbog posla /.../”

Održavanje veza i redovita komunikacija s društvom zemlje porijekla pružali su migranticama potrebne informacije i uvid u političko, gospodarsko i društveno stanje u Hrvatskoj. Saznanje o nepovoljnim okolnostima i skromnim mogućnostima izazivalo je neizvjesnost glede pronalaska posla i kvalitete života u domovini te je jednim dijelom potaknulo njihove poduzetničke ideje i ambicije.

Ispitanica 2: “Imala sam veliku želju što prije pokrenuti svoj posao u Hrvatskoj, biti stalno s djecom, a još nismo imali dosta novaca za to, a u Hrvatskoj još uvijek nije bilo lako dobiti posao za stalno s dobrom plaćom.”

Ispitanica 3: “Vrlo smo brzo odlučili da smo u Njemačkoj ipak samo privremeno da zaradimo nešto novaca i onda se vraćamo doma /.../ Ono što nas je stalno mučilo je bila briga i misao što ćemo raditi doma kad se vratimo i hoće li biti posla. Kako je u našoj ulici bilo mnogo djece migranata /.../ pa sam im ja ponekad uskakala u pomoć za pripaziti djecu i tako malo po malo pomislila sam zašto ja ne bih imala kad se vratimo u Hrvatsku privatni vrtić jer sam znala koliko je teško dobiti mjesto u vrtiću doma, a djecu stvarno jako volim.”

Negativna okolnost koja je odgodila planirani povratak migrantica bio je Domovinski rat. Vratile su se tijekom druge polovine 1990-ih i početkom 2000-ih kada su procijenile da je političko, gospodarsko i društveno stanje u Hrvatskoj povoljno za povratak i investiranje. Okolnosti u domovini pozitivno su ocijenjene i ulaskom Republike Hrvatske u Europsku Uniju 2013. godine.

Ispitanica 3: “U Hrvatsku smo se vratili 1996. godine kada je završio rat, tada smo procijenili da je dobro vrijeme za povratak i ulaganje, s obzirom na tadašnje stanje u Hrvatskoj i na informacije koje smo cijelo vrijeme dobivali od roditelja, rodbine i prijatelja.”

Ispitanica 5: “/.../ sve je više nas koji razmišljamo o povratku, pa tako sam se i ja odlučila vratiti kući, budući je Hrvatska sada dio EU te ovdje živjeti i pokrenuti posao i raditi /.../ Prvi razlog odluke o povratku bilo je ulazak Hrvatske u EU, a drugi taj što sam se razvela od supruga Nijemca i što sam podjelom imovine dobila određenu svotu eura koju sam željela investirati u nešto /.../, ali sam znala da ću sigurno investirati u domovinu i ako to učinim, tada ću se i sigurno vratiti.”

Nakon dugih godina, štoviše desetljeća provedenih u inozemstvu, u danom trenutku okolnosti u domovini ocijenjene su dovoljno pozitivnima za ostvarenje povratka. Unatoč povoljnijim prilikama u zemlji boravka, migrantice su bile spremne riskirati svojim povratkom i pokušati živjeti u domovini. Djelomično su krenule u poduzetništvo kako bi sebi osigurale posao i egzistenciju nakon povratka. S druge strane, upravo su političke, gospodarske i društvene promjene u samostalnoj Hrvatskoj, u razdoblju nakon rata, predstavljale izazov i priliku migranticama da ostvare svoje (dugogodišnje) poduzetničke aspiracije. Priprema povratka naših migrantica trajala je duže od očekivanog, trebalo je više vremena da se prikupe potrebni resursi, da se posloži situacija na individualnoj i obiteljskoj razini te povoljno percipiraju okolnosti u domovini. Migrantice su povratak realizirale u različitim životnim fazama, od svojih 30-ih godina do razdoblja starije životne dobi. Većina je spremnost na povratak postigla u svojoj radno aktivnoj fazi života nakon prosječno dvadeset i više godina boravka u inozemstvu. Prema Cassarinu (2004) za postizanje visoke razine pripremljenosti prosječna dužina boravka trebala bi biti optimalna, ni preduga ni prekratka, prosječno od četiri do petnaest godina. Naši povratnički slučajevi nakon znatno duže emigracije ostvarili su uspješnu reintegraciju i svojim ulaganjem pozitivno utjecali na razvoj zemlje porijekla te u različitim životnim fazama ostvarili za njih optimalan povratak.

## 6. Mobilizacija resursa

S obzirom da za pripremu povratka treba raspolagati resursima u obje zemlje, migrantice su tijekom migracijskog procesa prikupljale i održavale sve dostupne im resurse kako bi ih u pravom trenutku mogle upotrijebiti. Kad su prilike u zemlji porijekla postale povoljne, a migrantice spremne za povratak, mobilizirale su sve stečene i dostupne resurse u obje zemlje, od realnih resursa (financijska i materijalna sredstva), resursa u kvalifikaciji (obrazovanje, stečene vještine, iskustva) te društvenog kapitala (poznanstva, veze, mreže). U predradnjama pomoć je pružila obitelj, rodbina i prijatelji s kojima su migrantice bile povezane putem društvenih mreža baziranih na obiteljskim, emotivnim, poslovnim, kulturnim i drugim vrstama veza.

Radom u inozemstvu migrantice su stjecale i štedjele financijska sredstva neophodna za realizaciju povratka. Tijekom migracije ili neposredno prije i nakon povratka stečeni kapital uložile su u rodni kraj, investiravši u kupnju/obnovu/izgradnju kuće, poslovnog prostora, imanja te su pokrenule realizaciju poduzetničke ideju. Ekonomski kapital važan je faktor u realizaciji uspješnog povratka jer omogućava egzistenciju u domovini, olakšava reintegraciju te omogućuje investiranje i pokretanje biznisa. Na taj način migranti sebi osiguravaju posao i daljnju egzistenciju, a često i svojoj užoj obitelji što njihovu poduzetničku inicijativu nerijetko može pretvoriti u obiteljski biznis.

Ispitanica 4: “Za vrijeme kad smo živjeli u Švicarskoj sav smo novac ulagali ovdje, doma. Paralelno smo ovdje gradili kuću i ugostiteljski objekt jer kad smo tamo radili planirali smo ovdje u Hrvatskoj otvoriti ugostiteljski objekt.”

Tijekom rada u inozemstvu migrantice su postepeno napredovale od nisko-kvalificiranih i slabije plaćenih poslova prema zahtjevnijim s većom plaćom i boljim uvjetima rada. Poznavanje jezika zemlje primitka migrantice su navele kao važan preduvjet za pronalazak boljeg posla. Brezigar (2012, 156) u svom istraživanju prisutnosti predrasuda i diskriminacije prema migrantima u Sloveniji ističe da jezik može biti izazov i prepreka migrantima kod zapošljavanja i integracije u društvo zemlje primitka. Migrantice su jezik učile samostalno, na poslu i kroz školovanje vlastite djece. Njegovim savladavanjem olakšano im je stjecanje znanja, vještina, sklapanje poznanstava te stvaranje i širenje društvenih mreža. Osim bolje konkurentnosti na tržištu rada, jezik im je omogućio kvalitetniju komunikaciju s domicilnim stanovništvom i bolju integraciju u društvo zemlje primitka. Preko vlastite djece i ulaganjem u njihovo obrazovanje migrantice su se vrlo dobro putem jezične dimenzije integrirale u strano društvo te su jezičnom integracijom sebi olakšale život u zemlji primitka na poslovnom i društvenom području.

Ispitanica 1: “/.../ počela sam ponovno raditi kada su djeca krenula u školu i vrtić i tada sam znala već njemački jezik, a posao sam dobila prvo u jednom restoranu gdje sam kratko radila, a onda u jednoj tvornici, pa u veletrgovini, bilo je sve lakše za mene zbog jezika /.../ pa sam se počela družiti s Nijemcima na dječjim rođendanima, ponekad nakon škole, u parku smo znale se družiti zbog djece, ponekad i u susjedstvu /.../ bilo je bolje druženje kada sam naučila njemački jezik i veliko olakšanje, poraslo mi je samopouzdanje /.../”

Ulaganjem u obrazovanje radi proširenja kvalifikacijskih resursa može se postići bolja priprema i uspješnija realizacija povratka u zemlju porijekla što vidimo u slučaju migrantice kojoj je diploma omogućila otvaranje privatnog vrtića i ulazak u poduzetništvo. Ostale oblike kulturnog kapitala – znanje, vještine te radno iskustvo stečeno u inozemstvu – migrantice su iskoristile za realizaciju poduzetničke ideje, a time i ostvarenje uspješnog povratka i reintegracije u domovinu. Prilagodba društvu zemlje primitka zahtijevala je svojevrsnu kulturnu promjenu u sklopu koje su migrantice prihvatile pozitivne vrijednosti, stavove i radne navike društva zemlje primitka te ih danas primjenjuju u svom poslovanju i osobnom životu.

Ispitanica 4: “Odlazak u inozemstvo nam je bilo jedno jako dobro i vrijedno životno iskustvo, jako nam je puno pomoglo to što smo tamo naučili u Švicarskoj /.../ Željeli smo i naučena iskustva prenijeti ovamo, kući /.../ iskustva su nam dobro došla i sve što smo naučili i odnos s ljudima. To nam je čini mi se dosta pomoglo u našem poslu u ugostiteljstvu.”

Pored financijskog i kulturnog kapitala u analizu povratnih migracija potrebno je uključiti i društveni kapital koji proizlazi iz društvenih veza ili mreža koje migranti održavaju u obje zemlje. Migranti stvaraju i uključuju se u neformalne društvene mreže koje im daju podršku prilikom suočavanja s izazovima migracije i stresovima proizašlih iz naseljavanja i prilagodbe zemlji primitka (Birt Katić 2015, 48–49). U početnom razdoblju migracije ispitanice su u najvećoj mjeri komunicirale s migrantima s kojima su dijelila slična migracijska i poslovna iskustva. Svladavanjem jezika, društvene mreže proširene su na domicilno stanovništvo što je rezultiralo njihovom boljom integracijom u društvo zemlje primitka. Migracija predstavlja izazov za obitelj i njezine članove stoga je potrebno stvoriti nove uvjete kako bi migranti mogli nastaviti održavati i razvijati odnose s članovima svoje uže i šire obitelji u zemlji porijekla (Birt Katić 2015, 49). Takve potrebe iznjedrile su pojavu prekograničnih društvenih mreža koje migrantima omogućuju raspolaganje društvenim kapitalom, odnosno potrebnim resursima. Društveni kapital utječe na odluku o povratku te je važan segment u njegovoj pripremi i provedbi te društvenoj integraciji pojedinca u zemlju porijekla. Čine ga različiti materijalni i nematerijalni resursi koje povratniku pruža njegova obitelj, rodbina i prijatelji. Iz istih izvora migrantice su primale podršku i pomoć u planiranju i realizaciji povratka, ulaganju i pokretanju biznisa te prilagodbi zemlji porijekla.

Ispitanica 4: “Kada smo bili u inozemstvu i ovdje gradili nekretnine, roditelji su nam u tome pomagali, uskakali su po potrebi, kad je trebalo nešto riješiti, kada mi nismo mogli biti doma.”

Ispitanica 5: “Poznanik mi je odlučio pomoći oko svega kada sam ja presjekla razmišljanja i preispitivanja bi li ili ne uložila novac u apartmane, preselila se, ostavila jednu završenu priču u Njemačkoj i otvorila novu stranicu svoga života.”

Nakon povratka migrantice su nastavile održavati kontakte s društvom zemlje primitka te su ostale uključene u prekogranične društvene mreže posebice u slučajevima gdje je obitelj nastavila živjeti u inozemstvu.

Ispitanica 1: “/.../ danas kada mi dođu djeca i unuci sa svojim njemačkim prijateljima na /.../ (otok) opet se družim s Nijemcima preko svoje djece.”

Ispitanica 4: “Kad smo otišli iz Švicarske imali smo još dosta kontakata, došli su nam u posjetu, neki naši ljudi još uvijek tamo rade i odlaze i dolaze ovamo pa nam prenesu vijesti i tako. Na početku smo bili više u kontaktima, a to je s vremenom dosta izbljedilo, imamo još i sada kontakte, ali slabije kontaktiramo zbog svakodnevnih obaveza i zbog posla i s vremenom čovjek se tu nađe u tome, u okruženju i s ljudima i sve skupa polako izbljeđuje, s godinama.”

Migracijsko/povratnička iskustva migrantica nam potvrđuju da je donošenje odluke o povratku iznimno složen proces u kojem je potrebno da se od ideje

do realizacije povratka stvore optimalni uvjeti na individualnoj, obiteljskoj i društvenoj razini pojedinca, a koji su ujedno ovisni i o političko-gospodarskim prilikama i mogućnostima u zemlji porijekla i zemlji primitka.

## 7. Zaključak

Rad kroz migracijske teorije i iseljeničko/povratnička iskustva hrvatskih migrantica obrađuje temu povratnih migracija. Povratnički primjeri svjedoče o aktivnoj ulozi žena u migracijskim procesima koje su nakon desetljeća provedenih u emigraciji ostvarile povratak u domovinu, Republiku Hrvatsku, kao povratnice/investitorice i mikro poduzetnice. Tijekom privremenog rada u inozemstvu, migrantice su njegovale ideju o povratku koja je utjecala i strukturirala njihov obiteljski i individualni život u inozemstvu. Njihova namjera povratka vidljiva je kroz uspostavljene i stalno održavane prekogranične veze i odnose sa zemljom porijekla, česte posjete lokalnom kraju, kapitalnim ulaganjima i drugim aktivnostima. Spremnost na povratak migrantice su postigle kasnije nego što su u početku predviđale. Za definitivni povratak trebali su se prikupiti potrebni resursi, uskladiti povratak s obiteljskim i individualnim životom te čekati na povoljnije okolnosti u domovini. Migrantice su znale da za pripremu povratka treba raspolagati resursima u zemlji primitka i porijekla te ih u pogodnom trenutku mobilizirati. Stečena financijska sredstva (kapital) uložile su u rodni kraj te ostvarile poduzetničku ideju osiguravši sebi (i svojoj obitelji) egzistenciju u domovini. Za realizaciju povratka i pokretanje vlastitog biznisa, posla, također su koristile znanja, vještine te iskustvo stečeno tijekom migracijskog procesa. U zemlji porijekla uža je obitelj migranticama pružala značajnu podršku i u planiranju i u realizaciji povratka, kao i šira obitelj i prijatelji koji su predradnjama pomagali u pripremi i provedbi povratka. Istovremeno, pružali su i vrijedne informacije kako bi se odabrao prikladan trenutak za povratak i investiranje u Republici Hrvatskoj.

Okolnosti u zemlji migracije migrantice su ocijenile povoljno, posebice nakon prvotne faze prilagodbe stranom društvu i svladavanju jezika. Migrantice su ostvarile pozitivno migracijsko iskustvo što je utjecalo na produžetak njihovog rada i boravka u inozemstvu. Jedan od preduvjeta za realizaciju povratka su pozitivno ocijenjene prilike i mogućnosti u zemlji porijekla. Migrantice su u određenom trenutku svog života procijenile da su okolnosti u domovini dovoljno povoljne da se vrate, stoga su mobilizacijom svih dostupnih resursa ostvarile povratak koji su pomno planirale tijekom svog života i rada u inozemstvu.

Potpuna pripremljenost na povratak uvjet je za njegovu realizaciju, uspješnu reintegraciju i pozitivan poduzetnički utjecaj na lokalnoj i nacionalnoj razini. O tome, u ovome radu, svjedoče migrantska iskustva naših povratnica koje su u optimalnom trenutku uspjele realizirati uspješan povratak u domovinu.

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Matjaž Klemenčič, Maruša Verbič Koprivšek

## Response of Parliamentary Parties in the Republic of Slovenia to the Mass Arrivals of Migrants

The mass arrivals of political and economic migrants in Slovenia started when Hungary closed its border with Croatia. In this article, we analyze the reactions of parliamentary parties in Slovenia, focusing on the media statements of their leaders and members on the significant events since the beginning of mass arrivals of migrants to date: first arrivals of migrants to Slovenia, erection of fences on Slovenian-Croatian border, November 2015 Paris terrorist attacks, protests against accommodation of minor migrants unaccompanied by adults in Student dorm in Kranj, proposal for consultative referendum on the acceptance of migrants in Slovenia and Act on amendments to the Aliens Act. We point out some of the most defining statements to show the political opinions of individual parties and compare the responses of these parties in the light of the political division between left-wing and right-wing politics as well as political division based on the urban-rural cleavage.

**Keywords:** migrations, mass arrivals of migrants, Slovenia, political parties, media statements, urban-rural.

### Odziv parlamentarnih strank v Republiki Sloveniji na množične prihode migrantov?

*Masovni prihodi političnih in ekonomskih migrantov v Slovenijo so se začeli, ko je Madžarska zaprla svojo mejo s Hrvaško. V tem članku avtorja analizirava reakcije parlamentarnih strank v Republiki Sloveniji s poudarkom na medijskih izjavah njihovih voditeljev in članov o pomembnih dogodkih od začetka množičnih prihodov migrantov do danes: prvi prihodi migrantov v Slovenijo, postavitve ograj na slovensko-hrvaški meji, pariški teroristični napadi novembra 2015, protesti proti nastanitvi mladoletnih migrantov brez spremstva odraslih v dijaškem domu v Kranju, predlog posvetovalnega referenduma o nastanitvi migrantov v Republiki Sloveniji in Zakon o spremembah in dopolnitvah Zakona o tujcih. Izpostavljava nekatere najbolj odmevne izjave, ki odražajo politična stališča posameznih strank, in primerjava odzive teh strank glede na levo in desno politično usmeritev ter tudi glede na politično delitev, osnovano na razlikah med urbanim in ruralnim.*

**Ključne besede:** migracije, masovni prihodi migrantov, Slovenija, politične stranke, odzivi v medijih, urbano-ruralno.

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## 1. Introduction

In this article, we present and analyze the response of the parliamentary parties in the Republic of Slovenia to the mass arrivals of political and economic migrants. An average Slovene citizen experiences policies through often imprecise images, which are represented by daily media and/or different political parties. Slovene citizens are mostly not willing to invest much in knowledge of possibilities to shape policies in different social areas; they are generally interested in public affairs in circumstances that directly affect their personal well-being. This situation has been clearly demonstrated during mass arrivals of political and economic migrants in Slovenia from autumn 2015 onwards, when many citizens' initiatives and participations, public dialogues and guidelines for the implementation of certain policies and legislation have taken place. In 2015, the mass arrivals of migrants began due to political and economic crisis and continuous wars in the Middle East and North Africa regions. Part of European countries, especially Germany, at first responded with welcoming migrants because in the long run they need new workforce for the growing economies. Within this article, we discuss public announcements of individual parliamentary political parties in the media since the beginning of mass arrivals of migrants to date. We do not however discuss the later stages of accommodation, acculturation and assimilation of refugees in the Slovene society; we only focus on the early stages of the immigrant arrivals and reaction of political parties to the immigrant issues. We analyze how six political parties, currently represented in the National Assembly of the Republic of Slovenia (Party of Modern Centre, Slovenian Democratic Party, Democratic Party of Pensioners of Slovenia, Social Democrats, United Left electoral alliance and New Slovenia – Christian Democrats), responded (or not responded) to the crucial moments in this situation and initiatives of their electorate. Political parties are in fact those that (try to) reflect and form opinions of their (potential) voters, the citizens of the Republic of Slovenia, and in this way (try to) preserve or strengthen their political power. As such, taking the appropriate analysis, their opinions could also serve as an appropriate indicator of general public opinion.

## 2. Party System in the Republic of Slovenia

The Republic of Slovenia is an independent republic since the proclamation of independence on June 25, 1991. The National Assembly (Parliament), as a part of Legislative authority, consists of 90 deputies. Parties represented in the National Assembly as are: Party of Modern Centre (SMC) – 35 deputies, Slovenian Democratic Party (SDS) – 21 deputies, Democratic Party of Pensioners of Slovenia (DeSUS) – 11 deputies, Social Democrats (SD) – 6 deputies, United Left (ZL) – 6 deputies, New Slovenia – Christian Democrats (NSi) – 5

deputies, Deputy Group of Unaffiliated Deputies (NP) – 4 deputies, and one representative each of the Hungarian and Italian national communities.<sup>1</sup> In accordance with the Political Parties Act, a political party in Slovenia is defined as

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an association of citizens who pursue their political goals as adopted in the party's program through the democratic formulation of the political will of the citizens and by proposing candidates for elections to the National Assembly, elections for the President of the Republic and for elections to local community bodies (Political Parties Act, Art.1).

Slovenia is a country without a long tradition of statehood. Slovenia became independent at the same time as it transformed into a democracy: with the collapse of communism and disintegration of Yugoslavia in 1991. Like in other post-socialist countries, political parties in Slovenia played a crucial role as proponents of change in the transition process from the former communist regime (Kustec Lipicer & Henjak 2015, 84–86). The further democratization and consolidation of democracy were, more than anything else, based on the role of a newly developed but still very dynamic party system (Fink-Hafner 2010, 241). As assessed by Danica Fink-Hafner, political parties became the agents of the formation of the Slovenian state, but they were also shaped by this process (Fink-Hafner 2002, 43).

Generally, we can state that political parties in Slovenia are not based on the representation and advocacy of narrow interests (e.g. individual social classes, interest groups, regions, etc.) – with an exception of DeSUS, which represents pensioners – and cannot be distinguished easily according to the standard understanding of the left and right wing, primarily based on the economic or social issues. The comparative analysis of the relationship between the ideological positioning of voters and political parties in Slovenia, with respect to their position on the political spectrum, has so far shown that the classic economic left-right position in Slovenia is one of the least relevant factors of electoral choice. Instead, most studies reveal that the main ideological division in Slovenia revolves around the interpretation of history, and in that context primarily around the interpretation of the political divisions during World War II, the interpretation of the nature of war and its participants in Slovenia, attitudes towards the Catholic Church and the previous socialist regime. The issues of the traditional versus modern attitudes and values regarding individual freedom, role of family, religion and morality, as well as the definition of national identity are closely related to these historical divisions. These elements have formed another dimension of the dominant symbolic division (Kustec Lipicer & Henjak 2015, 85–100). On the other hand, the results of the first multi-party or democratic elections in Slovenia in 1990 showed different dimension of how electorate was divided, as the majority of the votes in the parliamentary

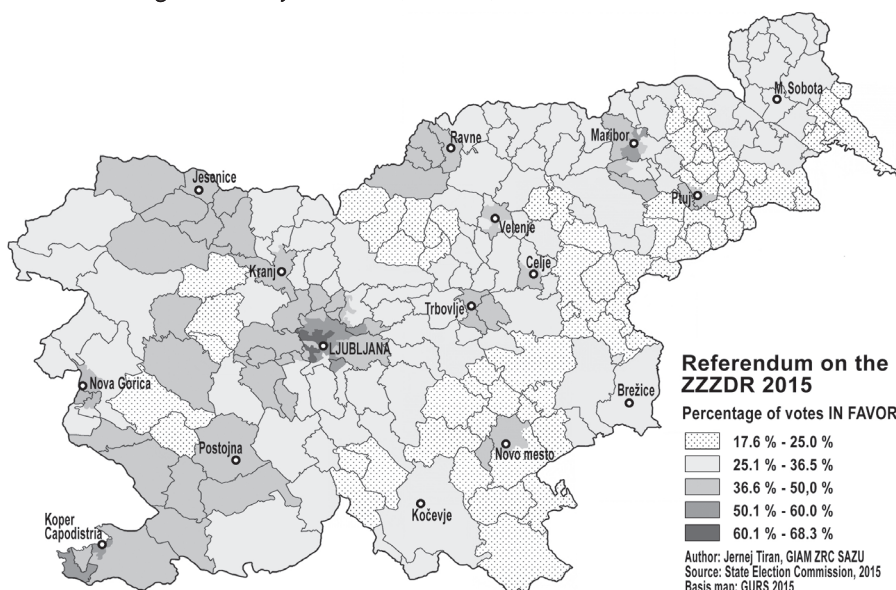
elections was won by the new democratic parties (Democratic opposition of Slovenia – DEMOS coalition) but at the same elections Milan Kučan, former non-democratic party leader (League of communists of Slovenia), was elected President of the Presidency – then a collective body (Klemenčič & Žagar 2004, 290).

In 2008, the year of the fifth democratic parliamentary elections after the independence in 1991, researches have shown that a new type of political division had taken place in Slovenia – the urban-rural cleavage. As concluded by Jernej Tiran (2011), despite the economical, spatial and population density development that constantly trends towards decreasing the differences between the urban and the rural areas, the political cleavage between the two has increased. The urban-rural cleavage in Slovenia is maintained largely by the differences in lifestyles and patterns that stem from the different identities of city and rural areas (Tiran 2011, 88–97). The rural and the urban milieu, in addition to the differences in education, religiousness, values system, occupation, structure and socio-economic status, each possess their own certain “cultural capital” (Luthar 1993, 113–37). Cultural capital can exist in three forms: in the embodied state, i.e., in the form of long-lasting dispositions of the mind and body; in the objectified state, in the form of cultural goods (pictures, books, dictionaries, instruments, machines, etc.), which are the trace or realization of theories or critiques of these theories, problematics, etc.; and in institutionalized state, a form of objectification which must be set apart because, as we can see in the case of educational qualifications, it confers entirely original properties on the cultural capital which it is presumed to guarantee (Bourdieu 2011, 82). According to this theory, the rural milieu is characterized by greater religiosity, below average level of education and a higher proportion of rural population, and the urban milieu, which is defined in particular through the negation of traditional communities, is characterized by higher socio-economic status, lower religiosity and the domination of employees in creative professions (Vehovar 1993, 73–93). In Slovenia, a strong relation exists between cultural taste and political preferences (Luthar 1993, 113–37). The same is true for values. The results of some researches show that values are a very important factor of political orientation. This is especially true for religious values, which are among all categories of values one of the best indicators of the political orientation of Slovenes; and the religious orientation is the strongest in the less urbanized areas (Musek 2002, 1–18).

Analyzes show that right-wing parties’ activities mobilize voters mainly from the rural areas, and left-wing parties achieve a high percentage of votes in urban areas (especially in Ljubljana – the capital city). This has last shown clearly in a referendum on the amended Law on Marriage and Family Relations (ZZZDR) on December the 20<sup>th</sup> 2015, which redefined marriage as “between two people” instead of “between a man and a woman” (ZZZDR 2014, 10) when

among the electoral districts where the majority voted in favor of the proposed law, were only those which include urban areas and are considered as politically leftist. On the other hand, the electoral districts in which the law was rejected by a large majority comprise rural and sparsely populated areas outside urban centers and are considered traditionally right-oriented. Distribution of votes in favor of the proposed law in percentage is presented on Map 1 (Tiran 2015). This is definitely conditioned by the aforementioned value system in urban and rural areas, but at the same time the result does not reflect the political parties' views as much as the traditional values of people within the wider electorate.

*Map 1: Distribution of Votes in Favor of the Proposed Law in a Referendum on the Amended Law on Marriage and Family Relations (ZZZDR)*



Source: Tiran (2015).

These findings can be properly used, even when discussing the political division between rural and urban as well as between center and periphery areas within the analysis of the response of the parliamentary parties in the Republic of Slovenia to the mass arrivals of migrants.

### 3. Public Announcements of Individual Parliamentary Political Parties in the Media

Slovenian parliamentary parties can be accordingly to their fundamental views and political agendas roughly divided into center/moderate, center-left or moderate left, left-wing, center-right or moderate right and right-wing politics

parties. We can say in general that: the center/moderate party presented in Slovenian National Assembly is Party of Modern Centre (SMC) – 35 deputies; center-left parties presented in Slovenian National Assembly are: Democratic Party of Pensioners of Slovenia (DeSUS) – 11 deputies and Social Democrats (SD) – 6 deputies; the left-wing party is United Left (ZL) – 6 deputies; the center-right party is Slovenian Democratic Party (SDS) – 21 deputies; and right-wing party is New Slovenia – Christian Democrats (NSi) – 5 deputies.

Party of Modern Centre – SMC (hereinafter SMC) is a young center political party, established in June 2014 as a Party of Miro Cerar<sup>2</sup>. Only six weeks after its establishment, on July 13, 2014, the party received 34.6 % of the vote in the 2014 parliamentary election, winning a plurality of 36 seats in the National Assembly (State Election Commission, 2014). Miro Cerar was appointed as the Prime Minister of the Republic of Slovenia. The party can be characterized in general as social-liberal and as such immigrant and refugees friendly; their voting body is mainly the voting body of once the most successful Slovene political party Liberal Democracy of Slovenia, which is now a non-parliamentary party.

Slovenian Democratic Party – SDS (hereinafter SDS) is center-right party, established as the Social Democratic Union of Slovenia in 1989, as opposition to the former Communist Party of Slovenia (it changed its name in 2003)<sup>3</sup>. It is now the second-largest party and the largest opposition party in Slovenian Parliament. The party can be characterized in general as a conservative party and as such immigrant and refugees unfriendly. Its politics, although they claim its historical roots are in the Social Democratic Party, established in 1890s, they moved from its original workers party roots to the right.

Democratic Party of Pensioners of Slovenia – DeSUS (hereinafter DeSUS) is a center-left political party with a primary goal to represent pensioners. It has been established in 1991 and been represented in the National Assembly since 1996 (Delo 2011). The President of the DeSUS is Karl Erjavec, now the Foreign Minister of the Republic of Slovenia. The party can be characterized in general as a social-liberal party, which represents pensioners, and as such immigrant and refugees friendly. It is worth mentioning that today's immigrants are tomorrow's workers and taxpayers who will provide pensions in the future.

Social Democrats – SD (hereinafter SD) is a center-left political party, founded as United List of Social Democrats in 1993 by a formal merger of several left parties (among them the successor of the communist party of the previous regime) that had already run in coalition in the 1992 elections (it renamed in 2005)<sup>4</sup>. The current President of the SD is Dejan Židan, now the Minister of Agriculture, Forestry and Food. The party can be characterized in general as a social party and as such immigrant and refugees friendly.

United Left – ZL (hereinafter ZL) is the most extreme leftist political party in Slovenian Parliament, and it was formed as an electoral alliance among the Democratic Labour Party (DSD), the Party for Sustainable Development of

Slovenia (TRS), and the Initiative for Democratic Socialism (IDS). The alliance was formed to contest the 2014 European Parliament election as a socialist and eurosceptic list (The Slovenian Times 2014).<sup>5</sup> It is now an opposition party, without formal leadership as it operates by the principle of egalitarianism. The party can be characterized in general as a social party and as such immigrant and refugees friendly.

New Slovenia – Christian Democrats – NSi (hereinafter NSi) is a Christian democratic and the most conservative parliamentarian party in Slovenia and as such immigrant and refugees unfriendly. The party was formed in 2000 following a split and a merger of Slovenian People's Party and Slovene Christian Democrats.<sup>6</sup> It is now an opposition party, led by Ljudmila Novak.

We analyzed the response of the parliamentary parties on the mass arrivals of political and economic migrants in terms of their response to the five key and significant events since the beginning of mass arrivals of migrants in Slovenia to date. These are:

1. first arrivals of migrants to Slovenia – the beginning of mass arrivals of migrants in Slovenia,
2. erection of technical barriers or razor wire fences on Slovenian-Croatian state border,
3. November 2015 Paris terrorist attacks,
4. protests against accommodation of minor migrants unaccompanied by adults in Student dorm in Kranj,
5. proposal for consultative referendum on migrants' accommodation in Slovenia and
6. Act on amendments to the Aliens Act.

### **3.1 First Arrivals of Migrants to Slovenia – the Beginning of Mass Arrivals of Migrants in Slovenia**

The mass arrivals of migrants in Slovenia started on October 16, 2015, when Hungary closed its border with Croatia. About 30 Hungarian soldiers around 20 minutes before 1 am installed barbed wire and closed the informal border crossing with Croatia – Botovo. Croatia redirected a migrant corridor towards Slovenia on three border crossings – a railway and road border crossing in Mursko Središće (Petišovci) and border crossing Macelj (Gruškovje). In this way, Croatia began to implement Plan C, Croatian plan, on which there was no agreement with Slovenia. The decision of Hungary to close the border with Croatia at midnight was in the words of the Minister of Foreign Affairs of the Republic of Slovenia Karl Erjavec, the President of the DeSUS, not a surprise for Slovenia; he stated they were prepared to this scenario. "The main objective now is to ensure security and order in Slovenia and proper treatment of migrants",

said Erjavec (Delo 2015). Because of these events on Hungarian and Croatian border, Austria also strengthened its border control.

The President of the SDS Janez Janša on Twitter urged the Slovenian Government to adopt the same measures as Hungary (Delo 2015). For the ZL closure of borders was not an option (Delo 2015). Bojan Dobovšek, the unaffiliated deputy (elected as Party of Modern Centre – SMC), has warned that if countries will not help the migrants to get to desired destinations, organized crime will (Delo 2015).

On October 29, 2015, Slovenian Government with Prime Minister Miro Cerar (SMC), discussed on comprehensive measures to control migration flows. After a government session, the Minister of the Interior Vesna Györköš Žnidar (SMC) stated that measures to manage refugee crises tend to deter and control illegal migration. She pointed out that Slovenia is the first country on the Balkan route, making the maximum effort to reduce migratory pressure, while respecting all humanitarian principles (Stranka modernega centra 2015a).

The SDS deputy Vinko Gorenak, former Minister of the Interior, defended the actions of Hungary:

Hungary is in spite of serious criticism from some EU countries one of the few EU countries that seriously protects the borders of the EU and seriously implements Schengen. A few days ago it completely closed the border with Serbia, sent there its army and directed migrants' way through Croatia and Serbia. And what is Slovenia doing? /.../ Slovenia should define the maximum number of migrants we can accept with solidarity, of course, depending on the number of migrants in other EU countries, their economic strength and population (Gorenak 2015).

### 3.2 Erection of Technical Barriers on Slovenian-Croatian State Border

On November 10, 2015, the Slovenian Government announced to set up technical barriers or razor wire fences at the border between Slovenia and Croatia (DolenjskiList.si 2015), i.e. the external border of the Schengen area, but at the same time the state border within the European Union. On November 11, 2015, the Slovenian army began erecting a razor-wire fence along the most exposed parts of the southern border. The fence should contribute to greater control of the arrival of migrants, so they would not cross the green border, but would be directed to the official crossings (Prlekija on net 2015). Political parties, except the ZL, agreed with this measure.

Slovenian Prime Minister Miro Cerar (SMC) explained to the President of the European Commission Jean-Claude Juncker that this measure is not about closing the border, but to ensure that people are crossing the border at the border crossings, not through the cold rivers.



Part of the parliamentary opposition has once more evaluated the Government's announcement on the technical barriers or wire fence at the border with Croatia as a logical but incomplete. In particular, the SDS has warned that the decision came too late, and the NSi that the erection of the fence is only a half-measure. Meanwhile, the ZL thought that this is an inappropriate and anti-humanitarian measure.

Leader of the ZL Deputy Group Luka Mesec wondered which of the problems the fence would solve. He reminded that the winter is coming, and people will be freezing behind barbed wire at the Slovenian border. "Clearly this is not something this government would consider important, it rather succumbs to a national paranoia created by the notorious political right", said Mesec (Delo 2015). The SDS deputy Vinko Gorenak in his statement to the media criticized the Prime Minister's words that the decision on fence was difficult for the Government. "This is a courageous act of state-building, intended for the protection of the country, people and migrants, it is something Cerar should be proud of", stressed Gorenak (2015). He also pointed out that Slovenia is in a crucial moment for the country. "Now it will be decided how the Europe will be tomorrow" (Gorenak 2015).

Leader of the NSi Deputy Group Matej Tonin stated that:

as long as the northern Europe had an open-door policy, the refugee flow only intensified, but now the North is saturated and will begin to restrict the flow of migrants. /.../ If we want to control this situation, the erection of the fence is a reasonable measure (DolenjskiList.si 2015).

At the same time he pointed out this is only a half-measure. The second half is the provision of personnel, which will ensure that the fence does carry out its function (DolenjskiList.si 2015).

The SD advocate the following view:

The technical barriers on the Slovenian border with Croatia are a temporary measure. Social Democrats firmly believe that the future of the EU is not in the fences and walls, but in an open and tolerant common European space. The Social Democrats hope that European actions will stop the pressure on the external borders of the European Union, ensure security and enable our government to remove technical barriers on the border with the neighboring country as soon as possible (Socialni demokrati 2016a).

### 3.3 November 2015 Paris Terrorist Attacks

On the evening of Friday, November 13, 2015, a series of coordinated terrorist attacks occurred in Paris and its northern suburb, Saint-Denis. Three suicide bombers struck near the Stade de France in Saint-Denis, followed by suicide

bombings and mass shootings at cafés, restaurants and a music venue in central Paris. The attackers killed 130 people, including 89 at the Bataclan theatre, where they took hostages before engaging in a stand-off with police. Another 368 people were injured, 80–99 seriously. Seven of the attackers also died, while the authorities continued to search for accomplices. The Islamic State of Iraq and the Levant (ISIL) claimed responsibility for the attacks, saying that it was retaliation for the French airstrikes on ISIL targets in Syria and Iraq. The attacks were planned in Syria, organized in Belgium, and perpetrated with help from citizens of France. All of the known Paris attackers were EU citizens who had fought in Syria. Some of them had returned to Europe among the massive flow of migrants (CNN 2016).

Janez Janša, the President of the SDS expressed the following opinions:

The assertions that the terrorist attacks in Paris are not related to illegal immigration are completely misguided. Of course they are related both to the current and the previous immigrant waves, and the failure to integrate immigrants from certain Muslim countries. Only vulnerable groups, women and children, should be considered as refugees. To combat-age men who are fleeing from these countries, the West must offer an opportunity to be trained, equipped and organized to defend and protect their homeland and their families. For those refugees who are already in the EU, it should be noted that they are expected to return home as soon as the situation will stabilize (Reporter 2015).

According to the investigations carried out on the involved terrorists, the SDS in particular stressed the fact that two of the attackers arrived in Belgium via the so-called Balkan route, also crossing Slovenia (Nova24TV 2016).

Prime Minister Miro Cerar (SMC) ensured that

in Slovenia there is no reason for the disturbance because the level of threat in our country has not increased these days, still, the competent authorities after Friday's terrorist attacks in Paris maintain an increased level of alertness, while also cooperating with the services of other countries (Stranka modernega centra 2015b).

Milan Brglez (SMC), the President of the National Assembly, expressed his conviction that “instead of fear which attackers wanted to sow in the European citizens, the desire for freedom, equality and fraternity will further strengthen. Europe will emerge from this episode stronger, without hatred and intolerance” (Stranka modernega centra 2015b).

### 3.4 Protests Against Accommodation of Minor Migrants Unaccompanied by Adults in Student Dorm in Kranj

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The principle of a Student dorm in Kranj Judita Nahtigal on February 23, 2016, decided they would not accept six minor asylum seekers unaccompanied by adults in the dorm. The proposal for accommodation was strongly opposed by the students' parents, the municipality and the local community, as well as some teachers (Šubic 2016, 1). Protests against accommodations for migrants also took place in a number of other places in Slovenia. It is important to mention that this particular dorm (as most other dorms in the Republic of Slovenia) is owned and governed by the State, and that the living expenses are highly subsidized by the State. The contracts for students staying in the dorm guarantee for their safety and well-being, but it is in the range of the State as the owner to determine who the tenants will be, if the tenants are students as these minor asylum seekers are.

The President of the SD and the Deputy Prime Minister Dejan Židan warned against intolerance, incitement, sowing fear. He told to the media that "to appeal to intolerance with political campaigns is wrong. Democratic countries cannot build their policy on the problems of refugees" (Socialni demokrati 2016b). The fact that the local community did not want to accept some migrant children without parents and that also some teachers opposed is in his opinion inadmissible. He has been wondering, "in what spirit are they raising citizens?" (Socialni demokrati 2016b).

The response of Jernej Pikalo (SD), the former Minister of Education, Science and Sport:

The Social Democrats are with deep concern monitoring the latest events regarding the accommodation of refugee children who should be placed in Student dorm Kranj. We are outraged and disappointed because of the lack of a fundamental sense of compassion for a fellow human being in those educators in Gymnasium in Kranj, who opposed the accommodation of children without mothers and fathers, the most vulnerable victims of the war in Student dorm in Kranj (Socialni demokrati 2016b).

The NSi deputy Jernej Vrtovec:

It is unacceptable to accommodate minor asylum seekers in a dorm full of other students. Parents are justifiably concerned. They are justifiably frightened and in this case they are also obliged to protest against such really strange Government's decision (Nova Slovenija – Krščanski demokrati 2016a).

One more eloquent statement from the NSi deputy Jernej Vrtovec on the costs of staying of migrants:

If someone has financial resources, why they wouldn't pay their stay in Slovenia? Why not put that money in the state budget or pay the costs of migrant accommodation? During the time of financial crisis, many of our citizens who are unemployed or working for minimum wage, are on the social fringe, nobody pays for their housing or bills. So why would we pay all these to migrants. Those who have money should contribute their share for the cost of accommodation (Nova Slovenija – Krščanski demokrati 2016b).

### 3.5 Proposal for Consultative Referendum on Migrants' Accommodation in Slovenia

The SDS deputy Vinko Gorenak on March 4, 2016, presented a proposal of the SDS Deputy Group for a consultative referendum on the acceptance of migrants in Slovenia. He stated that the referendum question would be: “Do you agree that the National Assembly of the Republic of Slovenia adopt the legislation, which will determine that the annual number of applicants for international protection will not exceed the number of applications for international protection in 2015?” (Slovenska demokratska stranka 2016). According to Gorenak, this means that the number of asylum seekers would be limited to a certain number, such as it was in 2015.

In the case of asylum seekers, the situation is relatively clear. We have many different problems all over Slovenia, the people are divided, whether they are supportive or rejective towards migrants, in the meanwhile the Government is successfully hiding costs for asylum seekers, which is why it would be right that the ruling coalition would finally listen to those who put them in power and let them decide how the legislation will regulate this field in Slovenia (Slovenska demokratska stranka 2016).

The President of the NSi Ljudmila Novak considered that the SDS proposal for a consultative referendum on migrants' accommodations in Slovenia is incomplete and must be refinished. At the same time, she said: “Slovenia needs to know what number of migrants we can successfully supply from an economic, security and financial point of view” (Nova Slovenija – Krščanski demokrati 2016c).

Already on February 2, 2016, Ljudmila Novak pointed out that Slovenia is not obliged to accept any migrant, because no agreement had been signed. “We are aware that we must be humane to the refugees. But first and foremost we need to take care of pensioners who receive monthly pensions of 400 Euros, and for all the unemployed,” said the President of the NSi and added: “In this migrant crisis, someone wants to impose on us whom we must help. I do not subscribe to this” (Nova Slovenija – Krščanski demokrati 2016d). Ljudmila Novak also expressed criticism of the policy of the European Union: “Instead of protecting the EU external borders, we now have a lot of internal barriers. Slovenia must

urgently adopt the above quota, ie how many people Slovenia is even capable to take. Miro Cerar's Government unfortunately doesn't act" (Nova Slovenija – Krščanski demokrati 2016d).

The SD on March 15, 2016, among others expressed the following position:

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The Social Democrats are committed to the creation of an EU migration policy by introducing clear rules on the separation of refugees and other migrants, as well as the EU agreement regarding the appropriate treatment of both. We need to help refugees whose lives are endangered by war and persecution. We must set common rules that will determine who is entitled to asylum in the EU countries. Social Democrats do not support the tightening of an asylum legislation that would deal with migrants as second-class citizens. / ... / Each of us, citizens of the Republic of Slovenia is obliged to resist radical, offensive and hostile rhetoric. If we understand, respect and hear each other, and if we can look for a reasonable solution together, migrations and migrants will not frighten us. Differences enrich, not impoverish our society, our daily lives, our future (Socialni demokrati 2016a).

### 3.6 Act on Amendments to the Aliens Act

Due to fears and hysteria in European Union and abroad of the possible forthcoming new wave of mass arrivals of migrants from the Middle East, and under the pressures of the right-wing parliamentary opposition parties, the Miro Cerar's Government decided to propose Act on Amendments to the Aliens Act. Emergency measures set out in the bill gave authorities the possibility to adopt special measures that would deny entry to people arriving at the borders and automatically expel migrants and refugees who had entered Slovenia irregularly, without assessing their asylum claims or the risk of them being tortured or persecuted upon return. The application of the measures would be conditional on the decision of the majority of the votes in the parliament to trigger their enforcement, following government's assessment that the public order and national security are under threat (Amnesty International 2017). In accordance with this bill, the possible asylum seekers would be under emergency circumstances denied the right to appeal to decisions of the police officers at the borders. In Amnesty International's opinion,

this bill resembles similar efforts of Slovenia's neighbors – most notably, Hungary, but also Austria – to seal their borders to those fleeing horrors of war. It rides roughshod over both the right that every individual has to ask for asylum and the obligation Slovenia has to fully assess each claim (Amnesty International 2017).

National Assembly of the Republic of Slovenia with 47 votes for and 18 against adopted the controversial amendments to the Aliens Act on January 26, 2017. And who in the end voted against the Act on Amendments (further the Act)? In

the SD Deputy Group (6 deputies) 5 deputies voted against the Act. In the ZL Deputy Group (6 deputies) 5 deputies voted against the Act.

It was interesting to see how uneven were the members of the DeSUS Deputy Group (11 deputies) – some have in fact moved from the mid more to the left, others to the right. 4 DeSUS deputies voted against the Act. Against the Act were also 4 members of the SMC Deputy Group (35 deputies), among them the President of the National Assembly and the Vice president of the party, Milan Brglez.

Members of the center-right and the right-wing parties' deputy groups (SDS with 21 deputies and NSi with 5 deputies) and the Deputy Group of Unaffiliated Deputies (4 deputies) all voted for the Act, some were abstained or were not present. The deputies of Italian and Hungarian minorities also voted for the Act (National Assembly of the Republic of Slovenia 2017).

It is interesting to note that the Act has passed with part of the votes of some coalition parties and vast majority of the right-wing opposition's votes. The proposal caused the rift within the governmental coalition; the reactions of the EU and the bordering states were also mixed.

The Secretary General of the Council of Europe, Thorbjørn Jagland, wrote a letter to the Prime Minister Cerar in which he expressed concerns by amendments to the Aliens Act. He stated:

I am concerned by amendments to the Aliens Act proposed by your government which, if adopted, will change the conditions of entry and expulsion of migrants and asylum seekers into Slovenia, raising a number of issues under the European Convention on Human rights, such as the right to due process, the consideration of individual circumstances in the processing of applications and protection of all migrants and asylum seekers against ill treatment, including 'non-refoulement' (Council of Europe 2017).

Slovenian Foreign Minister Karl Erjavec has tried to shed light on Slovenian Prime Minister Miro Cerar's statement about the opening of an Adriatic route whereby migrants might reach Croatia and Slovenia, which surprised Croatian Prime Minister Andrej Plenković. In Valletta at the Malta Informal Summit 2017 on February 3 Plenković said:

Perhaps it's some misunderstanding. Perhaps it's about the flow of migrants coming to Slovenia via Italy, but there has been no discussion nor do I, as prime minister, have any information from the security services about the existence of an open Adriatic route which would presuppose arrival by boat from the Strait of Otranto all the way to Istria. We haven't noticed that so far nor did I notice that Prime Minister Cerar said that at the meeting (EBL News 2017).

Passing of the Act caused also a breach within the SMC, even the President of the Slovenian Parliament, who teaches political sciences and Vice President of

the SMC, Milan Brglez, voted against the bill. The Prime Minister Cerar asked Brglez to resign as the Vice president of the SMC.

## 4. Conclusion

We analyzed the response of parliamentary parties in Slovenia to the six significant events in mass arrivals of political and economic migrants. We pointed out some of the most defining media statements of party leaders and members to show the political opinions of individual parties. We must emphasize again that it was not our intention to discuss the later stages of accommodation, acculturation and assimilation of refugees in the Slovene society; we only focused on the early stages of the immigrant arrivals and reaction of political parties to the immigrant issues. We came to the following conclusions.

The Government/Coalition parties (except the DeSUS) followed the events closely and made statements accordingly, but mostly in the course of their joint governmental work and decisions, and not as individual parties. They tried to pacify public opinions in order to minimize public fears towards migrants. During the first wave of migrants, they prepared measures to accept migrants in transition to Austria in humane ways and at the same time to protect Slovene citizens, still, they proposed the controversial Act on amendments to the Aliens Act to prepare for the possible new wave of migrants.

The SMC provided the media and the public only with superficial statements, which were based on the decisions of the Government of the Republic of Slovenia. As a party, they did not expose any partisan opinions; this could be because the SMC as a young party does not have any program dealing with this kind of situation. When it came to the votes on the Act on amendments to the Aliens Act, it caused the rift within the party, as some leading party members opposed the bill.

The DeSUS expressed no opinions in the media as a party at all, although their President Karl Erjavec is the Minister of Foreign Affairs of the Republic of Slovenia. We can say that so called DeSUS statements were only statements of the Government of the Republic of Slovenia. In the case of the Act on amendments to the Aliens Act, some leading members of the party opposed the bill.

The SD made statements according to the Government's policy and according to their social-democratic views. They were mostly very modest, but clearly step forward in their response to the accommodation of minor migrants unaccompanied by adults. They also made some very clear statements, which supported humane treatment of the migrants and (all present deputies) opposed the Act on amendments to the Aliens Act.

The ZL mostly protested the Government's policy whenever it came to restrictions towards migrants, especially when the Government erected technical barriers on the state border with Croatia and proposed the Act on amendments to the Aliens Act.

The SDS was the most critical towards the Government's policy from the beginning of mass arrivals of migrants, claiming that the policy was not fast and strict enough to protect Slovene citizens and country. Their media statements aimed to strengthen the fear of Slovene citizens towards migrants. They also proposed a referendum to limit a number of migrants, which should be admitted to Slovenia. They warned the people from the islamization of Europe and connected the migrant issues with terror and terrorists. They (all present deputies) voted for the Act on amendments to the Aliens Act.

The NSi expressed their opinions in the most direct way. Like the SDS, they criticized Government for not being efficient enough to solve migrant issues. They were the only party, which very openly defended protests against the accommodation of minor migrants in Kranj. They agreed with the SDS that Slovenia should limit the number of incoming migrants. They (all present deputies) voted for the Act on amendments to the Aliens Act. They also proposed that the Parliament should activate Article 10.b (actions in changed conditions in the field of migration) of the Act if the normal majority of deputies votes for the measure.

All parties, except the ZL, agreed with the erection of technical barriers on the border with Croatia, as this was the only way to somehow defend the Schengen regime and avoid chaotic situation on Slovenian borders at the time.

Based on the media statements of the leaders and members of parliamentary parties we came to the expected conclusions that center-left and left-wing parties supported the humane treatment of migrants and try to pacify public opinions in order to minimize public fears towards migrants during the first phase of mass arrivals of migrants. Center-right and right-wing politics parties advocated more strict measures to protect Slovene citizens and country. Their media statements aim to support or even straighten the fear of Slovenes towards migrants. We must point out that deputies of the coalition parties voted differently on the Act on amendments to the Aliens Act, what caused doubts about their sincerity on strictly defending the human rights of migrants. Slovenian Government also opposes controls at the internal Schengen borders, especially on the Slovenian-Austrian border, which are also the result of the internal Austrian political situation.

We can conclude that these opinions are in accordance with above described political division in Slovenia, based on traditional versus modern attitudes and values regarding individual freedom, role of family, religion and morality, as well as the definition of national identity. Even when discussing the political division between rural and urban as well as between center and periphery areas as a division between left-wing and right-wing politics, we can say that in general center areas are more pro-migrant oriented and peripheral areas are more anti-migrant oriented. Especially, since Slovenes are generally interested in public affairs in the circumstances, which directly affect their personal well-being, and migration crises, for now, more directly affected people in periphery.



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## Notes

- <sup>1</sup> See the internet sites: Government of the Republic of Slovenia, Political system – Legislative authority and Nation Assembly of the Republic of Slovenia, Deputies by deputy groups.
- <sup>2</sup> See his introductory from the official site of the Government of the Republic of Slovenia – Prime Minister of the Republic of Slovenia.
- <sup>3</sup> See the internet site: Slovenska demokratska stranka, Zgodovina Slovenske demokratske stranke – Dvajset let Slovenske demokratske stranke.
- <sup>4</sup> See the internet site: Social Democrats (Political party, Slovenia).
- <sup>5</sup> The United Left is described as eurosceptic list, but it is not eurosceptic in the same way as the UK Independence Party or the National Front of Marine Le Pen in France, which build on anti-immigrant sentiments. This is not present with the United Left; they are more opposed to the neo-liberal agenda and economic policy of the EU.
- <sup>6</sup> See the internet site: Nova Slovenija – krščanski demokrati, Ustanovitev in razvoj.



Lana Vidmar

## Another One Bites the Dust? A Critical Appraisal of the New Draft of the Nordic Saami Convention from the Perspective of Indigenous Rights

The Nordic Saami Convention is a proposed agreement between Norway, Sweden and Finland that will create the legal framework for the protection of the Saami peoples' rights. Saami parliaments and communities expressed their disagreement with the initial text. The article analyses the Draft of the Nordic Saami Convention from the perspective of protection of indigenous rights. The methodology used is desk analysis of the scientific literature and policy documents. The provisions given in the Draft are compared against documents concerning indigenous and Saami rights. Particular attention is paid to land rights, the right to self-determination, traditional occupations and language. The analysis shows that the Draft does not acknowledge the indigenous rights of the Saami people to the fullest, nor the specific cultural, economic, historic or linguistic context of the Saami.

**Keywords:** Saami, Nordic Saami Convention, indigenous peoples, Norway, Sweden, Finland.

### Še en propadel poskus? Kritična ocena novega osnutka Nordijske konvencije o Samijih z vidika pravic domorodnih ljudstev

*Nordijska konvencija o Samijih je predlagani sporazum med Norveško, Švedsko in Finsko, ki prinaša pravni okvir za zaščito pravic ljudstva Samijev. Samijski parlamenti in skupnosti so izrazili nestrinjanje z osnutkom besedila. Članek analizira osnutek Nordijske konvencije o Samijih z vidika zaščite pravic domorodcev. Pri tem metodološko sloni na analizi znanstvene literature in političnih dokumentov. Določbe osnutka smo primerjali z dokumenti, ki se nanašajo na pravice Samijev in domorodnih ljudstev. Poseben poudarek je na zemljiških pravicah, pravic do samoodločbe, tradicionalnih poklicih in jeziku. Analiza je pokazala, da osnutek domorodnih ne priznava v celoti pravic ljudstva Sami, prav tako pa tudi ne specifičnega kulturnega, ekonomskega, zgodovinskega in jezikovnega konteksta njihovega življenja.*

**Ključne besede:** Samiji, Nordijska konvencija o Samijih, domorodna ljudstva, Norveška, Švedska, Finska.

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## 1. Introduction

The year 2017 is very important for the Saami people in Norway, Sweden, Finland and Russia, since it marks the centenary of the first Saami Congress. The historic event took place from 6-9 February 1917 during the *Tråante 2017* festival in Trondheim, Norway. The meeting was organized by Elsa Laula Renberg and the Saami Women's Association at the Trondheim Methodist Church. Around 150 Saami from Norway and Sweden, many of whom were women, gathered to discuss the future of the Saami people. At the time, all the Nordic countries conducted assimilation policies and supported settlers' activities on the Saami land, which made the political task even harder. Although Elsa Laula Renberg is celebrated today as the most influential Saami political pioneer, Daniel Mortenson, editor, activist and reindeer herder from Sweden, also played an important role in the organization of the first Saami Congress and in Saami political life at that time. He was elected chairman and led the first Congress that laid the cornerstone for modern Saami politics (Larsen 2017b).

The programme for this year's celebration included all year around activities such as exhibitions, music, theatre and film festivals, traditional handicraft workshops, presentations of different publications, lectures on Saami history, culture and art and many other public events (*Tråante 2017*). The central event, the opening of the *Tråante 2017* centennial celebration, took place in the town square, where, on the open stage, many congratulated Saami on their national day. Mrs. Vibeke Larsen, the president of the Saami parliament in Norway, and Mrs. Erna Solberg, Norwegian Prime Minister, gave short speeches, and even King Harald of Norway was present. The Norwegian National Bank contributed to the celebration by issuing a special edition 20 kronor coin (Norges Bank 2017). However, all eyes were directed towards the eagerly anticipated new draft of the Nordic Saami Convention. Many had hoped that this was going to be the year when the hopes and dreams of Elsa Laula Renberg, Daniel Mortenson and many other Saami politicians and activists would be realised. Unfortunately, by the time the colourful Saami flags were raised and the first line of the Saami national song, *Saami soga lávlla* (Song of the Saami People) was sung, it had become clear that it might not be so. Since the Draft was published in mid-January 2017, prominent Saami politicians from all three Nordic states have been expressing their discomfort with the proposed text (Larsen 2017a, Varsi 2017). To understand why the proposed text caused so much agitation, dismay and frustration, a wider context must be taken into account.

## 2. Methodology

Preparatory work for this paper included desk analysis of the scientific literature and policy documents. An examination of the scientific literature has been

carried out to study the specific historic, social, cultural, economic, political and geographic situation of the Saami people in all three Nordic states. The policy documents included the international treaties relating to the indigenous peoples, national laws in all three Nordic countries relating to the Saami people and the newly issued Draft of the Nordic Saami Convention. At the time this article was submitted, extensive debates within the Saami communities and the Saami Parliaments were about to begin. Those debates will, in the months to follow, produce an important body of literature that was at the time unavailable to the author.

### 3. The Saami People

The Saami are an indigenous people living in northernmost parts of Norway, Sweden, Finland and the Kola Peninsula in the Russian Federation. They consider themselves to be one people, they have their own distinct languages, culture and society, and call the territory they traditionally inhabit Sápmi. By the time Norwegian, Swedish and Russian explorers reached the far north, the Saami had already established their own social, economic and political institutions. The most important unit of organization was the *siida*, which consisted of individuals who jointly managed land, water and resources. The Saami were engaged in reindeer herding, fishing, hunting and gathering. The traditional occupations and social organizations remain to this day.

There are two main groups of Sami languages spoken today; the Western Saami and the Eastern Saami. All the language variations have many dialects and sub-dialects (Sammallahti 1998). All of the Saami languages are characterized as endangered, seriously endangered or nearly extinct. The preservation of languages is one of the most important political agendas in contemporary Saami politics. During the colonization period, the state borders in Sápmi changed frequently, but the Saami always considered themselves to be one people with collective identity indigenous to Sápmi (Rovaniemi Declaration 2008, Murmansk Declaration 2013).

### 4. International Law and Indigenous Peoples

The Nordic Saami Convention has its roots in both the international legal framework protecting indigenous peoples and the national laws of Nordic countries. It is aimed at providing better, more comprehensive protection of the Saami people's rights, taking into consideration their specific historic, social, cultural, economic, political and geographic situation.

The international community began to show an interest in protecting the rights of indigenous peoples relatively recently, in the mid-1980s. The first to lead the way was the International Labour Organization, followed by the United

Nations Sub-Commission on the Prevention of Discrimination of Minorities (Vik & Semb 2013). But very early on, both organizations faced the problem of definition. Not only can indigenous peoples be found in all parts of the world, but they make a very diverse group. Given their different cultures, languages, belief systems, internal organizational systems, relationships with nation states and the diverse discriminatory policies they suffer from, it is extremely difficult to find a common denominator. Indigenous peoples do not have a uniform way of dealing with their past, nor similar visions for building their future. In addition, many indigenous groups expressed a desire to define themselves. While this enormous diversity represents one of the greatest treasures of humankind, it proved to be a challenge when it came to creating a universal, inclusive definition for all indigenous peoples. A desire for self-identification became a defining moment in implementing working definitions. The International Labour Organization (ILO), in Article 1 of its Indigenous and Tribal Peoples Convention No. 169 (ILO 1989), uses self-identification as a fundamental criterion and emphasizes indigenous peoples' own social, economic, cultural and political institutions, customs, traditions or special laws or regulations (ILO 1989, Art. 1). Mr. José Martínez Cobo, Special Reporter of the United Nations Sub-Commission on the Prevention of Discrimination of Minorities, fully acknowledges self-determination of indigenous peoples and their sovereign right and power to decide who belongs to them, without external interference (Cobo 1983). The need for flexibility and the respect for the desire and the right of each indigenous group to define itself is the prevailing argument in the work of the founding Chairperson and Special Reporter of the United Nations Working Group on Indigenous Populations, Erica-Irene A. Daes. Ms. Daes also emphasizes priority in time with respect to the occupation and use of a specific territory, voluntary perpetuation of cultural distinctiveness, self-identification and an experience of subjugation, marginalization, dispossession, exclusion or discrimination, regardless of whether these conditions persist (Daes 1996). A definition of indigenous peoples has never been adopted, but work of the United Nations Working Group on Indigenous Populations led to the adoption of the United Nations Declaration on the Rights of Indigenous Peoples in 2007 (UNDRIP 2008). The problem of definition is not purely an academic matter, but a real challenge in legal battles for the rights of indigenous peoples, as will be demonstrated by the case of the Nordic Saami Convention.

The ILO Indigenous and Tribal Peoples Convention No. 169 (further ILO Convention) and the United Nations Declaration on the Rights of Indigenous Peoples (further UN Declaration) deal exclusively with the rights of indigenous peoples and form the most important framework for the protection of these populations. The ILO Convention, being a legally binding agreement, offers a greater level of protection than the UN Declaration. The ILO Convention is primarily oriented towards protection of indigenous peoples' social and



economic rights, like recruitment and conditions of employment, vocational training, handicrafts and rural industries, social security and health, education and means of communication (ILO 1989). Self-determination of indigenous peoples is not an integral part of this Convention, but the Convention has significant provisions regarding cross borders co-operation and contacts, consultation and the participation of indigenous peoples in development plans regarding their lands. The UN Declaration on the Rights of Indigenous Peoples incorporates the right to self-determination as a right of indigenous peoples to freely determine their political status and pursue economic, social and cultural development. In exercising this right, indigenous peoples are entitled to autonomy or self-government in matters relating to their internal and local affairs, as well as the resources to finance their autonomous functions (UNDRIP 2008). The UN Declaration also regulates the rights to freely develop political, economic and social systems or institutions, the relationship with and rights within the states. When it comes to the question of indigenous lands, the UN Declaration gives indigenous peoples the right to own, use, develop and control their lands and once again emphasizes the right to consultation. There are number of other international conventions that have significance for indigenous people, such as the International Convention on the Elimination of All Forms of Racial Discrimination (CERD 1965), the International Convention on Economic, Social and Cultural Rights (ICESCR 1966) and its Optional Protocol (2008), the Framework for the Protection of National Minorities (1995) and the European Charter for Regional or Minority Languages (1992). Comparison of definitions used in international law on the Saami case clearly shows that they are indigenous people.

The Saami population is estimated to be between 70,000 and 100,000, with about 40,000-60,000 in Norway, about 15,000-20,000 in Sweden, about 9,000 in Finland and about 2,000 in Russia. The Saami constitute a numerical minority in most of the Sápmi region, except in the interior of Finnmark County in Norway and in the Utsjoki municipality in Finland (Anaya 2011, 4).

All Nordic countries have recognized the Saami as indigenous people. Norway was the first country to ratify the ILO Convention in 1990, but only after the report of the Ministry of Justice that claimed that Norway had, by that point, already fulfilled the Convention's requirements on land rights (Vik & Semb 2013). The question of land rights still prevails in the relationship between the Saami and the Nordic states and, as will be presented below, plays an important role in the proposed Draft of the Nordic Saami Convention. The constitutional recognition of the Saami as indigenous peoples in Norway is expressed, although without mentioning the word indigenous, in Article 108 of the Constitution: "The authorities of the state shall create conditions enabling the Saami people

to preserve and develop its language, culture and way of life” (Constitution of Norway, Art. 108). The term Saami people refers to all Norwegian Saami regardless of where they live or work, and to Russian, Finnish and Swedish Saami in Norway (Niemivuo 2015). The ILO Convention and Constitutional provisions are important sources for the domestic legal framework protecting Saami rights, such as the Sámi Act (1987), the Finnmark Act (2005) and Chapter 6 of the Education Act (1998), the Kindergarten Act (2005), the Reindeer Husbandry Act (2007) and the Action Plan for Sami Languages (2009).

Article 17 of the Finnish constitution states that: “The Saami, as an indigenous people, as well as the Roma and other groups, have the right to maintain and develop their own language and culture” (Constitution of Finland, Art. 17). Article 121 states that: “In their native region, the Saami have linguistic and cultural self-government, as provided by an Act” (Constitution of Finland, Art. 121). The Finnish Constitution mainly protects the Saami collective rights to language and culture. The Sámi Language Act (2003) protects the rights to use Saami languages before the courts and other public authorities; the Reindeer Husbandry Act (2000) deals with reindeer herding, the traditional Saami occupation. While the Saami have exclusive right to reindeer herding in Norway and Sweden, in Finland it is open to every citizen of the European Economic Area who has permanent residence in the reindeer herding area. The Skolt Act (1995) is developed in accordance with the rights and needs of the Skolt Saami. The Act on the Sámi parliament (1995) regulates the legal matters of the Saami parliament, a body whose main role is protection of Saami culture and language. Finland has not ratified the ILO Convention.

Sweden has on several official occasions emphasized the position of the Saami as indigenous people (Niemivuo 2015, Åhrén, Scheinin & Henriksen 2007). Saami are mentioned in the Swedish Constitution twice, in the Article 2: “The opportunities of the Saami people and ethnic, linguistic and religious minorities to preserve and develop a cultural and social life of their own shall be promoted” (Constitution of Sweden, Art. 2) and in the Article 17: “The right of the Saami population to practice reindeer husbandry is regulated in law” (Constitution of Sweden, Art. 17). The indigenous status is not mentioned. The law that regulates reindeer husbandry, the Swedish Reindeer Herding Act (1971), specifies that the right to own a reindeer is the exclusive right of the Saami, based on ancient tradition. The biggest obstacle to reindeer herding experienced by the Saami is forestry and overlapping property and land use regimes. Saami became an official minority language in 2000 and since 2008 education in Saami and other minority languages is considered equal to the education in Swedish. (Heikkilä 2010). Sweden also has the Saami parliament which was established through the Sami Parliament Act in 1992.

## 5. The New Draft of the Nordic Saami Convention

One of the most important international documents concerning the Saami people is the Lapp Condil, an addendum to the Stromstad Treaty of 1751, which established the Norwegian-Swedish border. At the time, Norway was part of Denmark and Finland was part of Sweden. After the countries agreed on borders, the Lapp Condil was negotiated with the purpose of regulating the position of the Saami people living on both sides (Alfredsson 1999, Eide 2001, Koivurova 2008a, 2008b, Jebens 1986). The Lapp Condil is sometimes referred to as Magna Carta' of the Saami people and it is the foundation of the Nordic Saami Convention.

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Work on the Nordic Saami Convention was initiated in 1986 during a Saami conference in Åre, Sweden. The Saami Conference is the highest body of the Saami council, a non-governmental organization, with member organizations in Norway, Finland, Sweden and Russia. The Saami Conference takes place every four years and adopts declarations and resolutions concerning important Saami matters. Representatives at the Helsinki Conference in 1992 emphasized that the Saami do not demand the establishment of a Saami national state or any changes to the existing borders (Niemiuvuo 2015). This Conference is also famous for adopting 6 February as Saami National Day. Since 1992, the necessity of the Nordic Saami Convention became a regular topic at the Saami Conferences and eventually made its way into public discourse. Soon after, a working group consisting of members from all three Nordic countries gave a positive opinion and creation of the Nordic Saami Convention had begun. During 2002, members of all three governments, together with the representatives of Saami parliaments, formed an expert working group and started preparing the draft. After long and extensive work, the proposed draft was presented in 2005. Its aim was to harmonize the legislation concerning the Saami in all three countries, to confirm the indigenous status of the Saami, regulate cross-border activities and clarify Saami rights to land and water. The negotiations of these difficult issues led to tensions between representatives of the states and the Saami parliaments, but the mutual conclusion reached in 2007 was that the proposed draft would form the basis for the future negotiations. A new round of negotiations started in 2011, and the resulting Draft of the Nordic Saami Convention (further Draft) was presented in January 2017.

One of the key problems and setbacks in this process was the fact that Norway ratified the ILO Convention and Sweden and Finland did not. Norway was, and still is, under international obligation to preserve the level of legal protection of the Saami as indigenous people according to the ILO Convention, which is not the case with the other two countries. There have been some attempts of ratification in Finland (Niemiuvuo 2015), but Sweden is persistent in ignoring its obligations toward the Saami people contained in international law.

For these two countries, a Nordic Convention that is fully in line with the ILO Convention, or offers a higher level of protection, would mean that the domestic legal framework had to be changed.

The ILO Convention protects indigenous peoples' rights to self-management and to participation in decisions regarding development on their lands. In practice, this would mean an increase of power of the Saami parliaments and stricter rules for consultations. Section 9 of the Finnish Act on the Sámi parliament (1995) stipulates that the state has an obligation to negotiate with the Saami parliament on those matters which may directly and in a specific way affect the status of the Saami as an indigenous people. On the other hand, the Saami parliament in Sweden, although publicly-elected, is a regulatory body under the Swedish Government, and not primarily a body for Saami self-government (Josefsen 2010). According to the Saami Parliament Act (1992), the primary task of the Swedish Saami parliament is to monitor questions related to Saami culture in Sweden. There are no provisions on negotiations or consultations. Such differences in the domestic regulations concerning the Saami people in Finland and Sweden offer insights into why the negotiations on the Draft of the Nordic Saami Convention were so long and difficult.

The new Draft begins with a preamble and consists of 46 articles divided into seven chapters: the Saami people's universal rights, self-determination, language and culture, land and water, Saami livelihoods, implementation of the Convention and final provisions (Draft 2017). The preamble states that Saami are indigenous peoples of Norway, Sweden and Finland with their own culture, society and languages that span national borders. The Lapp Condilic is acknowledged as the basis for the Saami cross-border cooperation. The Preamble also emphasizes the importance and protection Saami have under the UN Declaration of the Rights of Indigenous Peoples, ILO Convention No. 169 and other international conventions on human rights. It is stated that Finland and Sweden are not signatories to the ILO Convention. The Preamble mentions the Saami right to self-determination and access to land and water, as well as the impact that natural resource extraction has on the Saami communities.

The first Chapter deals with the Saami people's universal rights and confirms the Saami people's indigenous status in all three Nordic states. It guarantees that the Nordic Saami Convention will embody minimum rights and every state can enhance Saami rights through its national legislative and that it cannot be used in any way to limit the Saami rights that follow from international law or other provisions. The first chapter further refers to the protection against discrimination on the basis of Saami origins, gender equality, the rights of the Saami children and cross-border cooperation on cultural matters, language, society and economic activities. The right to self-determination is explained in one single article:

The Saami people have the right to self-determination. By virtue of that right they freely determine their political status and their economic, social and cultural development. Self-determination is exercised through autonomy in internal issues, as well as through consultations on issues that may have a particular significance for the Saami (Draft 2017, Art. 4).

While the Convention acknowledges the Saami right to freely determine their political status and economic, social and cultural development, the means for achieving this are vague. The question of self-determination is a complex one. The right of self-determination has been granted by two international treaties: the International Covenant on Civil and Political Rights (ICCPR 1966) and the International Covenant on Economic, Social and Cultural Rights (ICESCR 1966). Article 1 of both documents states:

All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development (ICCPR 1966, Art. 1, ICESCR 1966, Art. 1).

Self-determination can be external or internal. External self-determination challenges territorial integrity in attempts to create a new state. Internal self-determination is most often achieved through language, cultural or economic autonomy. With respect to indigenous peoples, there is a broad consensus that self-determination is to be gained through internal means (Genugten & Perez-Bustillo 2004, Baer 2005, Vik & Semb 2013). As mentioned before, the Saami have never expressed a desire for their own nation state, but rather a desire for independent decision-making on matters important for the preservation of their livelihoods, languages, culture and society, or, in other words, the Saami desire political autonomy. Such autonomy would require a special set of rules determining the relationship between the Saami minority and the majority population in nation states (Broderstad 2001). The proposed Draft does not guarantee the balance of power. Saami are given autonomy on internal matters, but only consultative status on issues of particular importance for the Saami people. The process of distinguishing internal matters from matters of particular importance has not been explained, and neither has the question of who can decide on these issues. Further chapters of the Draft reveal that internal matters do not include decisions regarding extractive industries on Saami land, or the management of traditional livelihoods.

The imbalance of power between the two actors is further bolstered in chapter two on Self-determination. It states that the Saami parliament's tasks are determined by law, meaning that it is an internal matter of every Nordic state. It takes the pressure off Sweden and Finland to enhance the scope of the functioning of the Saami parliaments. This short chapter deals exclusively

with the Saami parliaments, and it includes two potentially problematic topics from the Saami perspective: the electoral roll in Article 13, and consultations in Articles 17 and 18.

To be able to vote in the Saami parliamentary election, one must be enrolled in the Saami parliament's electoral register, and to do so, one must prove one is a Saami. Article 13 of the Draft stipulates that those who perceive themselves as Saami must meet one of three additional criteria:

*/.../ to have Saami as their domestic language or, to have a parent, grandparent or great grand-parent who had Saami as the domestic language, or to have a parent who is or has been enrolled in the Saami parliament's electoral register (Draft 2017, Art. 13).*

These rules can be seen as the legal framework for formal recognition of Saami identity. At first glance, they are very inclusive and broad, but there are certain problems. The Convention points to national law regulating this matter, meaning that states can make these rules stricter or looser. While it is easy to prove a parent's enrolment in the electoral register, it might not be as easy with the language requirement, which is a very complex matter. Speaking Saami languages was forbidden in Nordic states from the 19<sup>th</sup> century till as late as the 1970s. Because of this long period of official language discontinuity, many Saami lost their language. It is still one of the biggest wounds colonization left on these indigenous communities. For more than a century no education in Saami was possible. Written proofs of Saami language proficiency are scarce and it can be impossible to prove the home language of a distant relative. The question of the Saami electoral roll is inseparably connected to the question of who is Saami. Many Saami are married to non-Saami partners, and while their children have the right to vote, the marital partners, even when they speak the language and feel like a part of the community, believe they are not entitled to do so. Also, people who do not have a Saami partner, or Saami ancestors, but speak a Saami language, feel part of the Saami community and have a genuine interest in wellbeing of that community, and feel the same, excluded and pushed aside (Aslaksen 2008, Aslaksen 2012, Larsson & Buljo 2013). The Draft does not resort to the principle of self-identification, making Saami vulnerable to arbitrary decisions by third parties. Recently, the Supreme Administrative Court of Finland accepted nearly a hundred people as Saami against the will of the Saami Parliament (Näkkäljärvi 2015). Situations like this undermine the autonomy of the Saami parliaments as well as the right to self-determination.

Articles 17 and 18 stipulate the right to consultation with Saami parliaments and other Saami-interested actors. The right to consultation is a weak instrument of self-determination, because it does not imply that the states are legally bound to acknowledge or follow the opinions of the interested parties. Free, prior and informed consent offers a greater level of protection. The already mentioned UN

Declaration and ILO Convention are among the international legal documents that form the normative framework for free prior and informed consent (FPIC). FPIC is a right that allows indigenous peoples to give or withhold consent to a project that affects their land, culture or societies. The reason this right is not mentioned in the proposed Draft could be that neither Sweden nor Finland have signed the ILO Convention.

The Saami rights to language and culture are the best protected. The Saami parliament's main task is to protect, preserve and promote culture, and the parliaments have full authority in these matters. These rights are mentioned in chapter three of the Draft, but again, the Saami might find this chapter inadequate. The states' responsibilities for protection of the Saami languages are not explicitly stated. Expressions such as 'the state shall promote' and 'shall protect' are rather weak, compared to 'the state shall ensure' and 'shall guarantee'. The Draft does not protect language diversity by addressing the affirmative actions aimed at the preservation and development of the many dialects of Saami languages, nor does it stipulate the obligation to make Saami languages available in official use from kindergarten to university, in all spheres of public and social life, through all available media.

The Draft offers a weak protection of the Saami traditional knowledge and traditional cultural expressions. As indigenous people of the Arctic, the Saami have, over the centuries, gathered substantial knowledge of flora and fauna, the management of natural resources, climate and weather; they have developed unique skills and engaged in many different forms of art. As indigenous people, the Saami have the right to preserve and protect it, but the Draft does not stipulate the states' obligations in this regard, nor the means to protect the Saami traditional knowledge from unauthorized or commercial use by the third parties. The Draft pays special attention to these rights only in the case of *doudji*, a traditional Saami handicraft, in chapter six. In general, this chapter offers protection of a wide spectrum of cultural and language rights, but the mechanisms of protection are comparatively weak.

Saami rights to land and water are the cornerstone of their rights to traditional livelihoods. Fishing, hunting and reindeer husbandry are resource extensive occupations and unhindered access to water and land is necessary for these activities. Chapter four together with the preamble deals with rights to water and land and chapter five with the right to traditional livelihoods.

The areas that the Saami have traditionally used form a basis for the Saami to be able to preserve, practise and develop their culture, their language and way of life. In the states, the Saami have through prolonged traditional use of land and water acquired a collective or individual ownership or usage rights in Saami areas (Draft 2017, Art. 27).

States shall take measures to ensure the Saami's right to access and opportunities to use the natural resources that have traditionally been used by Saami in the Saami areas.

States shall ensure that there are appropriate procedures in national law with binding effect to determine Saami rights to land and water. In assessing whether the rights exist it should be taken into account that Saami often do not leave permanent traces in nature (Draft 2017, Art. 28).

These provisions should be understood in connection with the articles that stipulate the Saami rights to self-determination. If the instruments for independent management of natural resources are weak, the usage rights, even ownership, are questionable. Indeed, Article 30 deals with the situation in which the states interfere with or change the use of natural resources. In such cases the Saami will be compensated in accordance with the national rules. The Saami parliaments have little, if any, power to influence compensation rules and it is worrisome that this provision does not include the power of veto or the right to the free prior and informed consent by the Saami parliaments. Instead, the Draft states that: “The Saami as indigenous people shall not, through intervention in or change in use of natural resources, be denied the right to practise their own culture, their language and way of life” (Draft 2017, Art. 31).

The interference or changes to the use of natural resources mentioned above are mostly connected to the extractive industries. The diversity and abundance of projects connected to the extractive or energy industries on the Saami traditional land make land rights a very difficult topic. For a long time, Saami rights to the land were based on old doctrines: “immemorial usage” in Norway and “immemorial prescription” in Sweden and Finland (Allard 2011), and in most cases the use of land has been connected to reindeer herding. The legal disputes between the reindeer herding Saami and the authorities of three Nordic states have been settled according to these doctrines (Jebens 1986, Oskal 2001, Baer 2005, Allard 2011, Ravna 2013). While Sweden and Finland still use the old system, Norway has made progress in the protection of the Saami land rights. In June 2005, the Norwegian parliament adopted the Finnmark Act in order:

*/.../ to facilitate the management of land and natural resources in the county of Finnmark in a balanced and ecologically sustainable manner for the benefit of the residents of the county and particularly as a basis for Saami culture, reindeer husbandry, use of non-cultivated areas, commercial activity and social life (Finnmark Act, Section 1).*

The Act made possible the transfer of land previously held by the state to the inhabitants of Finnmark, regardless of their ethnicity (Minde 2001, Broderstad 2015, Josefson, Søreng & Selle 2016). The body managing the 45,000 square kilometers, the Finnmark Estate, is the first case of Saami co-management in relation to traditional occupations, but its importance is much wider. Due to this Act, many others had to be changed, such as the Minerals Act (2009) according to which the Directorate of Mining has to grant a special permit for exploration



or pilot extraction. The permit may be refused if granting the application would be contrary to Saami interests. If the Saami parliament opposes the permit, the Ministry shall decide, and if the Saami parliament opposes the Ministry's decision, it has the possibility of an appeal to the King. Although there are many complaints regarding the Finnmark Act and the Finnmark Estate, by Saami and non-Saami alike, it is a good example of the state working to achieve its obligations under the ILO Convention.

The Draft recognizes reindeer herding as a traditional Saami occupation and guarantees its protection, as well as the promotion of cross-border cooperation. It does not grant the Saami people the exclusive right to reindeer herding, leaving Finnish Saami reindeer herders, which are not granted that right under the national law, in an disadvantageous position. The reindeer herding Saami in Norway could find themselves in a similar position, due to emerging demands for a change of law that would allow non-Saami into the reindeer herding sector (The Local 2015). At the moment, all three Nordic countries have separate, slightly different, reindeer husbandry acts, but in each case, reindeer husbandry is an activity heavily regulated by the states.

From the perspective of the economy and security, control over water resources and territorial seas is a crucial question in every sovereign state. The Saami base their right to water on the traditional use of rivers, lakes and the sea. As the Draft acknowledges, the Saami have been using water in a sustainable way without leaving a trace. Today, they have little opportunity to protect this resource from overuse or misuse, especially for commercial purposes, as best exemplified by fishing. With 10.1 per cent of world exports, Norway is the second largest exporter of fish and fishery products (FAO 2016). According to the Register of Norwegian Fishing Vessels in 2014, there were 5,939 modern, heavily equipped vessels registered in Norway (Fiskeridirektoratet 2016). The harvesting of fish stocks is managed under a system of licenses and quotas. Marine management heavily depends on regulations, control and enforcement scheme. The fishing industry is of great importance for the national gross domestic product and employment. When quotas for fishing in Norwegian seas are concerned, every single crab matters (Staalesen 2017). Coastal Saami were fishing in the waters of northern Norway long before any nation state was formed, and thus earned their right to the protection of fishing as a traditional livelihood. Regardless, the Norway has never acknowledged the coastal Saami's traditional occupation. Rather, the state protects the rights of all small-scale fishermen of northern Norway (Søreng 2007, Brattland 2010, Sunde 2010, Pedersen 2012). The situation is similar with Saami river fishermen, such as those living on the shores of the River Tana, which separates Norway and Finland, and is one of the most important salmon rivers in Europe. The two states have recently entered into negotiations over a new legal framework regarding fishing rights, but they have not included local Saami communities (Maasø 2016). Article 37 of the

Draft discusses fishing in the context of marine resources: “In coastal Saami area particular emphasis shall be placed on the regulation and distribution of wild marine resources, due to the significance of special Saami use for Saami culture, language and society” (Draft 2017, Art. 37). The Draft fails to include different Saami fishing communities, like those Saami engaged in freshwater fishing. It does not offer a greater level of protection to this traditional occupation and does not recognize Saami rights to water to the fullest. Fishing is as important to the Saami people as reindeer herding or *duodji*, or any other traditional occupation. The importance of fishing for the economic sustainability of Saami communities is also not mentioned.

The Draft takes a rather narrow view of Saami economic activities. It does not assume that the Saami people might want to collectively engage in non-traditional activities, such as mining or operating power plants. Even when the Saami land rights are recognized, they do not include what that land might cover, but only surface that must be used for traditional occupations only. In a way, it constrains the Saami to a predetermined place in a Nordic society. The Saami are to reindeer herd, to fish, make *doudji*, and *joik*, because that is what makes them Saami. They cannot be regarded as indigenous people while they collectively engage in non-traditional occupations. The Saami identity is defined and understood through culture, language and tradition; it is static and determined by the past. But the Saami, like any other people, change, adapt and grow with time and their collective identity transforms. They have very strong roots in the past and a very strong desire to preserve their traditions, but that does not mean that they do not have the potential or desire to be contemporary indigenous people on a par with fellow Nordic citizens, and to freely express their right to self-determination right across Sápmi by balancing tradition and modernity in every sphere of their lives. The new Draft of the Nordic Saami Convention does not open the door to this possibility.

Chapter six is dedicated to the means of implementing this Convention. As stated, a working group comprised of ministers responsible for Saami matters of all three countries and representatives of all Saami parliaments shall meet regularly. Members can make proposals or present reports, and decisions shall be made through dialogue and consensus. Expenditures shall be divided equally between Norway, Sweden and Finland. Final provisions are given in chapter seven. The Convention should be presented to the Saami parliaments before it is signed by the states who are parties in this agreement. It is not explicitly stated that the Saami parliaments must approve the proposed Draft, but it is highly unlikely that any state would go on with the Draft if the Saami parliament was opposed. All parties to the Convention will ratify it, and every party has the right to denounce the Convention. The final provisions do not give instructions in case any of the Saami parliaments wants to denounce the Convention.

## 6. Conclusion

When the Draft was presented, the Saami communities expressed their dissatisfaction and disappointment, and at first it seemed that the document would never be given the green light. However, the Saami parliaments have not officially rejected it. Instead, numerous consultations are scheduled and are already taking place. The new Draft recognizes Saami indigenous rights and it also acknowledges diversity in Saami communities, livelihoods and cultures. A special place has been given to women and children, and to education in and through Saami media. The rights to water and land have been recognized and connected to the preservation of the Saami societies, languages and cultures. The drawbacks can be noticed in the inadequate instruments for the achievement of self-determination especially with regards to land rights. The Draft does not offer the same level of recognition and protection to all Saami traditional occupations, leaving the fishing communities in a disadvantageous position. Furthermore, the Draft does not imply possibilities of new, modern collective business endeavours among indigenous communities. The language diversity is not recognized to the fullest and the Draft offers weak instruments for the protection of Saami cultural identity. In conclusion, the Saami Parliaments would welcome more autonomy in the management of the Saami political, economic and cultural life. This could be achieved through the instrument of free prior and informed consent.

The Draft will now undergo intensive examination. The Saami parliaments in all three Nordic states will discuss it separately and decide on its fate. It is important that these discussions are not held behind closed doors, but among the Saami communities, so that all the different voices are heard and taken into consideration. However, the responsibility for the Nordic Saami Convention lies on the shoulders of its signature parties, the Nordic states, who should work towards achieving a mutually acceptable solution with full respect for the international legal agreements regarding indigenous peoples' rights, as well as the specific Saami context.

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Marcos Toyansk

## The Romani Diaspora: Evangelism, Networks and the Making of a Transnational Community

As a scattered population without a homeland, the case of the Romanies is interesting and very relevant for the study of how a dispersed and diasporic group may try to achieve autonomy without establishing a state with its own territory. At the same time, it invites us to consider in what ways the scattered and very diverse Romani groups can create a transnational community, since they have shown very different features and needs. This paper focuses mainly on Brazil, where many Romanies from different backgrounds live, in order to analyze the Romani Evangelism development of intra-state and trans-state networks among co-ethnics, describing its spatial approaches and territories and comparing it to the notion of dispersion condition as a de-territorialized one. As a process capable of connecting Romani communities worldwide, Romani Evangelism can become an umbrella under which the various groups are brought together, enabling the rise of a transnational community.

**Keywords:** transnationalism, Romani, diaspora, Pentecostalism, Evangelism.

### Romska diaspora: evangelizem, mreže in nastajanje transnacionalne skupnosti

*Romi kot razseljeno prebivalstvo brez lastne domovine so zelo zanimivi kot primer, kako razseljena skupnost v diaspori lahko doseže avtonomijo, ne da bi ustanovila države z lastnim ozemljem. Po drugi strani pa ob Romih lahko proučujemo, kako razseljene in zelo raznolike romske skupine ustvarjajo transnacionalno skupnost, še posebej, ker imajo zelo različne značilnosti in potrebe. Članek obravnava predvsem Brazilijo, kjer živijo številni Romi iz različnih okolij. Analizira romski evangelizem in njegov razvoj znotraj države in v meddržavnem okviru s poudarkom na prostorskem pristopu. Primerja ga z uveljavljenim pojmovanjem razseljenosti kot deterritorializiranega stanja. Romski evangelizem kot proces, ki povezuje romske skupnosti po vsem svetu, lahko postane krovni okvir združevanja različnih skupin, kar lahko pripomore k nastanku transnacionalne skupnosti.*

**Ključne besede:** transnacionalizem, Romi, diaspora, binškošništvo, evangelizem.

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## 1. Introduction

The geographical dispersion and the lack of cohesiveness among the various Romani (Gypsy)<sup>1</sup> groups is one of the main challenges to their identity recognition and global political mobilization. Centuries of dispersion and living under different rulers produced a rich mosaic of Romani peoples, so Romani groups have shown very different features and needs without any strong common trait able to connect them, leading Carol Silverman to assert that “discrimination is sometimes the only thing that seems to unify Roma, and this is precisely what Roma seek to eliminate” (Silverman 2012, 47).

The first signs of the Romani ethnic mobilization and the search for unification of their several and dispersed communities can be traced back to the Balkans in the 19th century (Marushiakova & Popov, 2005, 433). Since then Romani ethno-nationalism has experienced various stages of development: from the first attempts to unite Romanies worldwide in a single state by Roma from Eastern Europe until the global movement described by Marushiakova and Popov (2005, 433–455).

In this process, cohesiveness and leadership are essential for collective projects and to strengthen solidarity beyond national borders. Considering that the international Romani movement is in its early stages, one should expect only a partial success in creating a broad Romani transnational community requiring representation, leading some scholars and activists to highlight this challenge for future Romani ethnic mobilisation (Gheorghe & Mirga 1997, Sheffer 2003, Hancock 2010).

However, this seems to have been changed in recent years by the emergence of Romani Pentecostalism throughout Romani communities. In the shadow of the secular movement, the evangelization of Romanies was carried out by pastors and missionaries who started to unite Romanies, creating places of worship and establishing ethnic associations throughout Western Europe. Some years later, it spread to other regions through Romani networks, also reaching South and North American and Eastern Romanies. According to Manuela Cantón Delgado (2014), Romani Pentecostalism could be considered a process of modern ethno-genesis capable of connecting Romani communities and becoming an umbrella under which the various groups are brought together, even facilitating the rise of a pan-Romani community at a more global level through transnational activities and a sense of brotherhood. The Roma activist Jorge Bernal pointed out that

the Evangelical movement has given us not only a religious revival, but a revival of our culture and language too. It has brought about cohesion among the different Kalderash and Lovari groups and brought them closer to many other Romani groups (Bernal 2014, 204).

The Romani Evangelical movement has its roots in 1952 in France, where a non-Gypsy pastor called Clément Le Cossec founded the first religious transnational movement – *Mission Évangélique Tzigane* (MET) and started to spread it to other countries. In the Iberian countries, the diffusion was protagonized by the Spanish *Gitano* Emiliano Jiménez Escudero, and the most important expression is the Romani Philadelphia Church (*Iglesia Evangélica Filadelfia* – IEF). Created by and for Romanies themselves, its establishment took place in a time of opening to religious pluralism in the Iberian countries, and it was supported by the MET and Assembly of God that, according to Blanes (2008, 25), provided financial, logistical and human resources to its development.

In Western Europe the evangelical networks among Romanies expanded dramatically during the last few decades and it is spreading to other corners of the world. As a flourishing transnational movement, linking people on a religious basis beyond national frames of reference (Droogers 2014, 197), the Evangelical associative movement promises to overcome the obstacles faced by Romanies worldwide in creating a self-formulated transnational community. Forging an “imagined community” (Anderson 1991), the Evangelical movement is effecting a formal re-territorialization through places of worship, nurturing a Romani cultural revival, preserving the Romanies’ self-proclaimed uniqueness and partly succeeding in uniting Romanies from different groups in an ongoing process. As a transnational formation based on religious and ethnic – and partly linguistic<sup>2</sup> – elements, the evangelical Romanies espouse religious beliefs that are intertwined with and overlap their ethnic identity.

Notwithstanding its importance, the religious movement has been overlooked by scholars. Some works have been published on religion and its impact on Romani identification and social organization (Cantón Delgado et al. 2004, Cantón Delgado 2014, Gay y Blasco 2002, 2012, Ries 2007, 2009 and others), but more remains to be discussed. In a recent analysis on the disconnections between the Romani leadership and its communities, Anna Mirga asserted that:

One evident novelty, which is often treated marginally by scholars and Romani activists alike, is the emergence of religious leadership. Across Europe, the Evangelical movement has conquered the hearts and minds of numerous Romani communities, altering traditional patterns of Romani social organisation and leadership / ... / Often Romani religious leaders reach beyond their spiritual competencies to engage in social action, community initiatives and self-help programmes, combining their roles as religious and community/civic leaders (Mirga 2015, 31–32).

The Romanies can be considered one of the greatest contributors to the spread of Pentecostalism in Europe. Even though there are huge Romani communities on the American continent, especially in Brazil, Argentina and the United States, prior literature on Romani Pentecostal transnationalism has focused almost exclusively on European phenomena. It is generally known that Romani

churches are spreading where Gypsies live, but there are almost no studies on this topic focused on this part of the world. Hence, this article is a preliminary attempt to bring the Romanies from South America, firstly those from Brazil, into diaspora studies. Since some Romani communities operate globally, I must note that the geographical scope of this study is an important limitation. I also call for more integrated and comprehensive research between North and South American and European Romanies, and perhaps in Asia since Israel is already a site of transnational religious activities and India could become so in the near future.

In this article, I focus mainly on Brazil, where many Romanies from different backgrounds live, in order to analyze the development of Romani Evangelism intra-state and trans-state networks among co-ethnics, describing its spatial approaches and territories. I shall concentrate on an analysis of the spatial organization of Romani Evangelism in Brazil, comparing the spatial dimension of the two diasporic notions – secular and religious – and going beyond the misguided notion of the diasporic space as de-territorialized and ungrounded. Thus, I adopt a spatial approach, both physical and social, to analyze the Romani networks and places, aiming to understand the construction of a Romani religious territory and its contribution to the development of the community. The analysis will show how the spatial Romani Evangelism approach is contributing in a very relevant way for the formation of a transnational community.

In the first section, I will present some methodological considerations. In the subsequent section, I will give an overview of the Romani people in Brazil, describing the relations among different groups and the development of the Evangelical denominations among them. Then I will present briefly the concepts adopted in this article, enabling me to analyze the Romani networks and territories and the spatial pattern of the transnational associative Romani movement conducted by the evangelical Christians; this will be compared to the notion of dispersion condition as a de-territorialized one. The conclusions are presented in the final section.

## 2. Methodology

Many of the arguments and much of the information presented in this article are based on fieldwork undertaken during 2012 and 2014 in São Paulo, and on interviews conducted with Portuguese Calon and Brazilian Roma Pastors from São Paulo, Paraná and Minas Gerais, as well as with the Gadge (non-Romani) and Brazilian Calon pastors and missionaries that work in Paraná and São Paulo with Calon (2012–2015). Occasionally, I use examples from my own empirical work in Spain (2015–2016) to make my case.

I adopted a mixed method approach. The ethnographic data were collected by participant observation and interviews. I conducted semi-structured inter-

views with pastors and missionaries who used to carry out religious activities across Brazil. In addition, informal interviews were held during participant observations. The geographical boundaries of the research were determined in accordance to the spatial distribution of the religious organizations, reflecting the distribution of Romanies themselves, not following the well-defined boundaries of administrative regions. The locations chosen are in the southern parts of the country where Romanies are numerous and it is possible to find Romanies from the three different groups: Brazilian Calon, Portuguese Calon and Roma. In addition, this region leads the country in terms of both population and wealth. Moreover, the most important Evangelical organizations in terms of resources and connections abroad are concentrated in these areas. At the micro level, interactive social mapping was useful, so the locations of importance to the research were obtained from religious individuals. I added some information from fieldwork in Spain. With the largest Romani population of Western Europe, Spain is an important site to research Romani Pentecostalism because many ideas and structures are formulated and organized there. Furthermore, Spain is linked to Brazil and the Americas in general due to its imperial past. Huge waves of Spanish people, including Romanies, went to South America, and Brazil was an important recipient country. Hence, transnational contacts between the two countries are not unusual, even though the contacts between Portugal and Brazil are traditionally stronger.

The informants were chosen in order to obtain different viewpoints. They have different educational backgrounds, different socio-economic status and belong to different Romani groups. During the field research, conversations were held with Evangelical Romanies of both sexes and with different occupations and housing. The Gadge also have different backgrounds, ranging from those with basic levels of education to those who hold a master's degree.

### 3. Romanies and Evangelical Networks in Brazil

It is estimated that the Brazilian population of some 200 million contains more than 600,000 Romanies, dispersed throughout the country, but this is only conjecture, since there are no statistics classifying the population according to ethnicity. Major communities reside in the states of São Paulo, Rio de Janeiro, Minas Gerais, Goiás, Bahia and Paraná. Roma activist Jorge Bernal, based in Argentina, describes the main groups in Brazil (Bernal 2014, 224–226): The Kalderash from Eastern Europe have been in Brazil since the turn of the 19th century. Many more came during and immediately after the Second World War, and there was an influx of Italian Kalderash in the 1960s. The Matchuaia, the second main group, came originally from the Mačva region in Serbia, whence their name. They are close to the Kalderash and have almost no relatives left in Europe. They are mainly found in Brazil and the USA. These two groups are

considered the most important and most prestigious, and some of them are wealthy. In addition, there are some Lovara and Xoraxane Romani families living dispersed throughout the country. Finally, there are Calon from the Iberian countries. This latter group was the first to arrive in Brazil, following deportation by the Portuguese from the 16th century onwards.

Kalderash Roma are very keen to distinguish themselves from Calon, as they consider themselves the authentic Romanies. For their part, Calon groups are unwilling to be associated with the Roma. Some of them simply know nothing about the Kalderash. Moreover, there are also some divisions within the groups. For example, some Calon born in Portugal distance themselves from the Brazilian Calon whose ancestors arrived from Portugal and settled in Brazil many decades or even centuries ago. Scattered throughout the country, they form a very heterogeneous group.

In Brazil, Evangelism has emerged via two different paths: from family contacts (old established networks) and through the efforts of religious missions. It is worth noting that these are almost completely separate groups with their own particular path of development, and they differentiate themselves regarding their evangelization: for the Roma group, it was the result of family ties, while for the Calon it was introduced, with few exceptions, by non-Gypsy pastors. Unlike Romani Evangelism in Western Europe, Romani Evangelism in Brazil is in its early stages. A Roma evangelical pastor estimates that less than 10,000 Romanies of Eastern European background have converted to an evangelical denomination in Brazil (Interviewee 3). I believe this is a conservative estimate, but it is still too early to know whether the evangelization of Romanies in Brazil will spread as quickly as it did in Western Europe. Additionally, I did not get any estimate about Calon groups, even though it is quite common to find someone evangelical or from a family where someone adopted the new faith.

Within Brazilian society more broadly, Pentecostalism has risen along with other religious movements, like the Theology of Liberation, gaining acceptance as an alternative to mainstream religion and practices. The Theology of Liberation acknowledges the agency of people to transform their environment, bringing about a new leading role for minorities, allowing the oppressed to take part of the church: the notion of an option for the poor began to become more prominent as well as the possibility of collective projects and political action created within the local communities. As a process of total liberation, the Theology of Liberation encourages people to become active agents of their own destiny in order to liberate themselves from resignation, economic exploitation and evil/sin, addressing the struggles of the impoverished and enabling them to transform their lives and social identities.

The similarities between the Theology of Liberation and the major Pentecostal churches which have been successfully introduced by pastors to the marginalized people in Brazil are, however, limited. Notwithstanding their

targeting marginalized, segregated and impoverished people living mainly in the outskirts of the big cities, the two movements are very different in their nature and approach. Furthermore, the former emerged as resistance against the dictatorship in Brazil, while the latter flourished in a time of opening to religious pluralism subsequent to the political opening. Moreover, it is not possible to apply the same rationale for many evangelical Romani groups, especially the Portuguese, the Kalderash and the Matchuaia, which enjoy a high standard of living in Brazil. The flexible organization and autonomy offered by evangelical churches seems to be a more important factor in explaining the spread of this religious approach among those who prefer to remain separate, rather than taking part in non-Romani churches.

Following my attempt to map the Romani evangelical networks in Brazil, it is possible to offer a preliminary overview. The Roma Pentecostal network was founded by kinship networks of Matchuaia and Kalderash, with branches in at least seven cities, linked to some international evangelical networks. They are situated mainly in the southeastern parts of the country, where many Roma families live. It is an ethnic church in the sense that the religious service is open to members of the community and the language of worship is Romani. Unlike in some parts of Europe, the converted Roma are not granted any special status by their own community.

The main process of evangelization among the Calon began with the establishment in 2002 of a mission called MACI – *Missão Amigos dos Ciganos* (Mission of the Friends of the Gypsies), an interdenominational<sup>3</sup> network. Years later, another mission was founded in Dourados, Mato Grosso do Sul. In 2004, the Calon Project, which aims to evangelize Gypsies of the Calon group, was founded in Santa Fé do Sul. Together, they established a network called RENACI – *Rede Nacional de Apoio aos Ciganos* (National Network to Support Gypsies), which is comprised of various ministries that benefit from training and education in anthropology and transcultural activities considered useful to the mission. According to a non-Romani pastor (Interviewee 4), this is a transnational network with contacts in Europe, Turkey and India, which operates 16 offices throughout Brazil offering training courses about the Romani. There are also other Romani churches, like a Calon Presbyterian church and some branches of the church of Portuguese Calon. The Portuguese Calon, for instance, who are concentrated in the southern parts of Brazil, have their own places of worship and form a singular network connected with evangelical churches in their homeland<sup>4</sup>.

In addition to furnishing this descriptive presentation, my research suggested ways in which evangelical ideology impacts on the identity of the Romanies, presenting one possible way of bringing Romanies together. The heterogeneity of the Romani communities must be emphasized, and also that of the evangelical churches. However, despite their differences, there are some features common

to the various evangelical pastors who seek to change the Gypsies' traditional way of life. As elsewhere, they condemn some traditional Romani practices, like palm reading and fortune telling; however, most pastors refuse to enforce such strict rules. Generally speaking, they ask converts to sacrifice a part of their Romani culture/way of life, becoming a new individual with a new identity, but without losing all Romani cultural traits.<sup>5</sup> They do not stop being Romanies. In general, Pentecostalism adds a new identity dimension to its converts, as children of God (Robbins 2004). The evangelical Christians emphasize the aspect of cultural revival through language, and have launched some projects to preserve the Romani heritage, such as an oral Bible translation project from Portuguese to *Chib* – the word used by many Calons to refer to the Romani dialect from Portugal and Spain – and encouraging the use of *Chib* during worship. This dualism represented by cultural domination and homogenization, and the transformative power of indigenous appropriation and differentiation, is a prominent characteristic of the Pentecostal movement in general, and as Robbins (2004) argues:

its tendency to preserve peoples' beliefs concerning the reality and power of the spiritual worlds from which they have broken. P/c preserves these beliefs in the sense of accepting their cognitive claims concerning the existence of spiritual forces, but it does not retain the 'normative presuppositions' about the moral value of the spiritual world that often accompany them (Robbins 2004, 128).

Paloma Gay y Blasco (2002) argues that in spite of changing some aspects of the Romani culture, the Pentecostals affirm the uniqueness and superiority of Gypsies over non-Gypsies, keeping the strong Romani ethnocentrism intact; while the secular activists not only adopt the institutional supports for identity offered by the non-Gypsies, they also rephrase the content of that identity on the basis of non-Romani values and cultural models, abandoning the radical ethnocentrism of the Romanies.

Pentecostalism also brings new hierarchical forms that transcend barriers of kinship and permit many members to have formal roles, offering an opportunity to serve in some capacity for most converts, although most lack the credentials to preach (Robbins 2004, 130). According to Manuela Cantón Delgado, "evangelical pastors have become favored leaders and mediators and their authority is rarely if ever questioned by their congregation or by those who support the work they do" (Cantón Delgado 2014, 79)<sup>6</sup>.

In Brazil, the Romani groups that I have contacted are all aware of other groups in Brazil and elsewhere, but share a weak sense of identity that connects them all. In practical terms, very few of them are willing to establish links with others in order to create one single community. During a meeting, one man from a Calon group complained about the separation among the groups, but at the



same time he considered the evangelized ones as part of the same brotherhood (Interviewee 2).

This mutual perception between the two groups was confirmed during a conversation with Pentecostal Roma with a Balkan background. Most of them do not consider the Calon as equals, though they recognize that they are Romanies too and thus related to them. The Roma pastor argued that it is very important to embrace them as part of the (evangelical) community, which sheds light on the emergence of a Romani Evangelical community in Brazil. Although only in its early stages, this phenomenon indicates a possible rapprochement between Calon and Roma groups in Brazil: while at present it is still restricted to Romanies, it now encompasses two different groups.

Internal divisions could be weakened by the religious teachings and approaches. A former member of the Romani Philadelphia Church of Spain and currently a very skeptical person with regard to Evangelism in Spain admits that "Evangelism was able to put thousands of Gypsies together in a way that was not possible before, when it was difficult to gather more than twenty people" (Interviewee 1). Against the fact that Romani groups do not usually intermarry, some missionaries encourage mixed marriage among converted Romanies from different backgrounds and it appears to happen already in a very limited scale, as I noted during my fieldwork in Brazil. In practice, it seems that they are starting to act like affiliated groups, forming a kind of evangelical Romani diaspora.

Considered by many scholars the two most important transversal and transnational structures, other than family groups and parentage, the Romani secular associations and the evangelical Pentecostalism have absorbed different diasporic narratives. Transnationally oriented Roma activists from secular associations learnt from non-Roma scholars the notion of Romanies as a people of Indian origin. Since then, some activists have had active contact with India. As an ethnic diaspora with an allegedly clear ancient land and a shared history and origin, the Romanies could ostensibly follow the conceptual model of other diasporas, like the Jewish one.

Evangelism, for instance, adds a new dimension to this diasporic notion, as reported by Paloma Gay y Blasco:

some converts look to the past but claim that all Gypsies are Jews that became lost during the forty years of exile in the Sinai desert /.../ and read the Bible in search of parallels between Gypsy and Jewish customs as described in Holy Scripture (Gay y Blasco 2002, 184-185).

I have heard from many Romanies in Brazil that they believe in an Israelite origin of the group, connecting Romanies to Jews and Israel. None accepted of the Indian roots, but to an origin similar to the Jews. In Spain, this narrative was found among converted Romanies. Without any exception, interviewees believe

that Romanies are a people of Israelite origin that came to Europe through India. In other words, they left the Middle East towards India and, after spending some time there, started a new migration westwards. A pastor from Malaga region in Spain contested the Indian origin, affirming that *Gitanos* are related to Jews, and Israel is a special land where some Gypsies are living in right now and others should at least pay a visit (Interviewee 7). A converted woman from Seville region also reported the same narrative, arguing that there are some many cultural similarities and a common history of persecution (Interviewee 8).

Aside from this new diasporic notion, the transnational ties are growing from below and the church offers institutional support. In Brazil, the first pattern found is that of Portuguese Romanies. They are used to shuttling between the two countries: many spend some years in Brazil, while maintaining close ties with their homeland. They can sustain an intense transnational lifestyle over many years facilitated by their occupation, i.e. trade, and language. Their transnational character can be perceived through the economic activities, cultural exchanges and social relations, like hosting other Portuguese in Brazil and staying in touch and helping each other in the new country. Like other migrants, they are able to link Portuguese Romanies with Brazilians in several areas, since they live parts of their social and economic lives across national boundaries. The religious spaces play a significant role in putting all member of this community together.

In a very different way, Brazilian Calon have only occasional cross-border contacts. But as Peggy Levitt pointed out:

One does not have to move to engage in transnational practices. Because people who stay behind are connected to migrants' social networks, they are exposed to a constant flow of economic and social remittances (or ideas, practices, and identities that migrants import) on a regular basis. Even individuals who have barely left their home villages adopt values and beliefs from afar and belong to organizations that operate transnationally (Levitt 2004).

Due to pastors' influence, some are starting to negotiate their relationships to other Romanies, since some are pushing to reconceptualize their experiences as transnational experiences. Their identities are been transformed by the presence of transnational actors, quite often religious, and their discourses of a single affiliation.

The third pattern is that of the Roma. Given their global dispersion, many of them have extensive networks of relatives and friends in North and South America and Europe, forming together a transnational social field. Since many have relatives abroad, some are used to transnational exchange visits.

Most Portuguese and Roma Gypsies are embedded in a social field but do not identify with it, maintaining their own distinction. At the same time, they express their culture and membership to the group, especially through language

and music. For example, in addition to speak Romani, some Roma usually play Balkan music – which they consider a Romani cultural trait – in order to express a kind of imagination of their own identity and origin. It could be a way of keeping alive a transnational perspective, and the space that it takes place is usually the evangelical church.

Armed with transnational knowledge skills acquired mostly by circulation, many evangelical pastors are thus able to play a significant role in shaping Romanies' perceptions of themselves, enabling a common identification in diasporic communities. Creating transnational spaces, they are in a unique position to bring Romanies together<sup>7</sup> and to mobilize cross-border contacts, offering institutional support. These networks are sustained by meetings on the religious spaces, online communication and social media.<sup>8</sup> Embedded within the groups is the religious identity that buttresses transnational ties, leading them to construct their identities in ways that encourage transnational practices and lifestyles. The already mentioned narrative on the origin of Romanies is transmitted in the churches. A booklet by Ravello entitled the *El verdadero origen de los Gitanos* (The True Origin of the Gypsies) has been distributed by an important pastor from the Romani Philadelphia Church, in which the author contested the Indian origin and argued in favor of an Israelite one. These ideas are flowing through transnational networks.

To summarize, the Brazilian Romanies are involved in different transnational networks: Roma are linked to other Roma groups, while Calons are indirectly linked to Gadge networks or to exclusively Calon networks. Until now, in Brazil, Evangelical denominations have not succeeded in bringing the various Romani groups together completely, although there is some evidence that this is beginning to happen, as demonstrated before. A well-known president of a Romani association, himself an evangelist stated that the churches are places where many Romanies from different backgrounds meet each other and the religion works as an umbrella which brings many Romanies together (Interviewee 6). According to him, there is already a sense of belonging among Romanies; religion is able to bridge the micro-identities of the various Romani groups. This interviewee related the evangelist's efforts in bringing Romanies together by offering exchanges between Brazil and Europe, and spoke about many encounters in the churches among Romanies from Romania, Portugal, Spain, Brazil, Argentina, Uruguay and the United States (Interviewee 6).

Rather than continuing to emphasize the agency of transnational actors on making a transnational community, undertaking a more detailed survey of the impacts on the identity, I shall concentrate on the diasporic territory-network formed by evangelicals that allows not only the Romani Pentecostal ideology to travel, but also Romani pastors and community members to travel and communicate in transnational circuits.

## 4. The Spatial Approach and the Development of a Transnational Community

I have outlined some elements that suggest a transnational Romani community is developing through Evangelism<sup>9</sup>, like the addition of evangelical ideology and practices, which has made it possible for individuals from different groups to acquire a unique sense of belonging that transcends their prior group affiliation. As a result, the converts constitute a new (sub-)community, an evangelical Romani community. However, I want to offer an additional analysis of the development of the community by considering its socio-spatial organization and territorial effects; after all, “space is by its very nature full of power and symbolism, a complex web of relations of domination and subordination, of solidarity and co-operation” (Massey 1993, 156).

As a scattered population, a diaspora has a distinctive, rather than an absent, relation to territory, as territoriality does not necessarily entail exclusively the practices attributed to the modern territorial state. However, conventional thinking about diaspora geography relies only on the analysis of their relationship with their homelands or host countries, in which diasporas are considered to be challenges to the state. Since a diaspora’s connections exist at different levels, ranging from the local to the international, their members are enabled to participate in the activities of multiple countries (Hardwick 2008) and to formulate social, cultural and political expressions outside the framework of territorial states. In this sense, the geographical features of these ethno-national formations can be considered in terms of their own organization. According to geographer Rogério Haesbaert (2004, 358–359), the geographical features of diasporas are: multipolarity (dispersion, decentralization and non-hierarchical form), inter-polarity of relations (the centre is mobile in order to expand business or to obtain protection against crisis), and multi-territoriality (having multiple places of identity). These three geographical features can shed light on the territoriality of the diaspora as different from territoriality as understood in the framework of a state’s territorial dominance. Bearing this in mind, it will be possible to compare the different spatial approaches adopted by some Romani activists and religious organizations.

I will address the case of Romanies by considering the spatial dimension, offering one possible approach according to certain understandings of the relationship between territory and network.

### 4.1 Territory and Networks

A network can be conceived in accordance with Hardwick’s concept of the roles of networks in ethnicity:

Networks of ethnicity enhance the transfer of information among family and friends, co-workers, and co-religionists, and social networks shared by migrants with similar backgrounds may also help to cushion the impact of adjusting to life in a new place. Once in place, information that is passed back and forth within networks of ethnicity may lead to self-perpetuating chain migration flows (Hardwick 2008, 172).

Both of the associative Romani movements, religious and non-religious, construct endogenous connections almost exclusively with co-ethnics.

As for territory,<sup>10</sup> conventional definitions consider it a straightforward concept. As Painter suggested, “the general assumption is that territories and networks are antithetical, representing contrasting or even competing forms of socio-spatial organization” (Painter 2006, 16). Territory evokes boundaries, land within limits, while networks involve connection, flows and mobility: “whereas networks enable flow and movement, territories inhibit them” (Haggett 1965, cited in Painter 2006, 16). According to this thinking, states are territorial, while economic and social activities are networked; networks are assumed to be de-territorialized. However, this concept is misleading, firstly because each de-territorialization implies a re-territorialization, and secondly because networks territorialize themselves. So networks are part of the territory, enabling the concepts of network and territory to be linked together. I am not merely arguing that territories and networks are interdependent; I accept that territories are composed of networks, or are an effect of them: “territories are a set of the ‘effects’ of the networks” (Painter 2006, 23).

Perlmutter depicts the world as being organized vertically into nation-states and regions, but horizontally by an overlapping, permeable, multiple system of interaction, creating communities of interest, trans-state religions, shared opinions and beliefs, trans-state ethnicities, etc. (Perlmutter 1991, cited in Cohen 1997). This system corresponds to at least two types of territorialization: zonal and netlike. The first is a closed type with fixed limits and borders. The latter is constituted by networks, being characterized by discontinuity, dynamism, mobility and overlaps (Haesbaert 2004). This netlike system, which forms a territory network, is pursued by some scattered ethnic groups as an alternative to a system of dominance that aims to establish a territorial state.

Some Roma activists, like the late Romanian sociologist Nicolae Gheorghe, adopted the cosmopolitan approach and have made claims for cultural rights instead of territorial rights, i.e., territorial autonomy. Though targeting almost exclusively European and international institutions and advocating a transnational federation, some first generation Roma activists recognized the need to work also at the local level and the importance of territory. He pointed out that

Roma are considered to be attached to land, a country or a state only in superficial ways and this disconnectedness gives them the potential for various kinds of mobility – as is happening nowadays when they migrate to Western European countries or Canada (Gheorghe 2013, 10).

However, Gheorghe does not deny the link between the Roma and territory, asserting that the Roma are connected to territory and that the concept of nomadism is not key to their specificity. As he argues, “different kinds of relationship to land and territory should be taken into consideration” (Gheorghe 2013, 11). In other words, some transnational activists were also aware of the importance of acting at different geographic levels; however, they did not draft a spatial strategy for the transnational nation they aimed to establish. With scarce human and material resources, they choose to invest their efforts at the regional and global levels, privileging the interaction with European and global organizations, instead of dealing with internal affairs.<sup>11</sup> In this regard, the religious movement is acting in a very different way, by combining different spatial scales and levels of interactions.

Rejecting the territorial state model as a fixed unit of sovereignty that acts as a container of the society and separates international and domestic dimensions, it seems that some Romani activists choose its counterweight: networks. However, they accept de-territorialization as cultural hybridity, multiple identities without a clear spatial reference – a “non-territorial nation” as some used to call it (Pietrosanti 1994). On this point, I observe the ambivalent role of networks by examining the construction and appropriation of networks by Romani transnational associations, resulting in two different forms of space control.

Receiving the support of some nation states when it is in the state’s interest, and acting only in international space, some secular transnational Romani organizations act like centrifugal and extroverted networks that disorder Romani territories. Moreover, I see no action towards territorialization by segregated Romanies – those who have no control over their own territories – but only outward flows, retaining the de-territorialized condition (a precarious one). The identity pattern is global and transnational, instead of local or regional, although some activists claim double recognition as a transnational and national minority at the same time. This strategy is based on the belief that being transnational means being a-territorial. The lack of a clear and shared spatial reference leads them to proclaim extraterritoriality – a transnational ethnic identity that offers a feeling of belonging to a non-territorial social body. The territory disappears in favor of a transnational identity. As a result, they are unable to offer refuge to those in a precarious territorial condition.

Like other Pentecostals, evangelical Romanies consider the Kingdom of God the ultimate home. However, to this de-territorialized notion they add a local dimension that is very much grounded. Hence, in a different way than the secular movement, some evangelical churches have a territorializing effect, since they act on different levels, from the local to the regional and global, shaping territories and enabling their appropriation by marginalized groups. Resulting from exogenous (non-Romani pastors) and endogenous (produced within the community) processes, they shape the new Romani-evangelical identity at all

levels. These churches are developing a territorial organization model that acts locally in order to facilitate the physical connection of Romanies and to enable collective projects. There are flows circulating through networks established and controlled by evangelical Christians. The recomposition of community ties is achieved through networks conceived as territories. Wrongly considered de-territorialized due to its discontinuous (non-contiguous) form, the Evangelical movement did not embrace the extraterritorial approach. Territory is important for this movement in reaching people, as being a successful missionary means taking responsibility for a place and its people. Such churches manipulate the particularities and needs of the place in order to reach people, hosting and offering empowerment and religious support. Rosendahl remind us that territory is built by the existence of religion, and by the existence of territory the individual and collective religious experiences can be strengthened (Rosendahl 2007, 195).

Each form of spatiality has a different consequence. Some approaches clearly target only international institutions, but an inadvertent side-effect is that their discourse can be exploited by those nationalists who consider Romanies as foreign intruders: "If they do not belong to any place, they can be expelled from every place", they might say. The religious approach towards territory, on the other hand, recognizes the inherent human condition of being attached to space and the implications this has on power relations. The temple is a physical space of connection, a Romani territory that maintains cultural values and nurtures relationships among its members, providing linkages and channels of negotiation with the outside world. In contrast, secular organizations are constantly leading to integration within the non-Romani structures, in which Romanies are treated like guests, not full partners.

In Brazil I observed that the evangelical churches have a complex multi-territoriality that exists at different levels, from local to international: the parochial form (temple), and the netlike form (transnational and kinship and communication networks) that can reach even the poorest territorialized clusters – those located in territorial reclusion – and establishes mobile and discontinuous territories (houses of worship). As Levitt pointed out:

What's more, religion doesn't just work locally, at the level of everyday experience at the temple /.../ the temple is often connected to national and international networks that link people to fellow believers as well as real and imagined landscapes far away /.../ it speaks to the transcendent and the ordinary at the same time. As such, its message resonates with people's everyday experiences, the global world they live in, and the cosmos that created it (Levitt 2007, 64).

I have visited a Roma church and participated in the service several times. Outsiders know little about it; among those I spoke to in the neighbourhood, no

one was aware of its activities or was familiar with the Roma. In fact, the members of the church rarely live near the church. However, the location of the church was not randomly selected, but chosen strategically to enable members to reach it from many places. It functions as a site of maintenance of the ethnic community and culture, since all members are Roma and the service is held exclusively in Romani rather than Portuguese. As well as a gathering place for family groups, it is also a socialization space among different families. Furthermore, the church is a key element in shaping transnational circuits, functioning as a meeting place for foreign members too.

For instance, a tent-church has been erected by a non-Romani missionary linked to a broader network in the middle of a Calon encampment and has become the main place of gathering and meeting with outsiders. Without any contact with people from abroad, the Calons increased their contacts with other Brazilian Romani and non-Romani persons through such religious networks. In addition, they are included in some projects established by evangelists, like the language revival project which aims to (re)introduce the Caló language in their daily lives and to show similarities with the language of Roma in order to induce them to believe they share the same origin and should act like a unified community. This view is also shared by the Romani pastors.

In both cases, churches are spaces for social meetings, economic exchanges and cultural reinvention, in which all Romanies and even some non-Romanies can engage. I have observed some doing business, while others make use of the time to socialize with co-ethnics. Interestingly, many Romanies that are not interested in attending the cults are also indirectly connected to them, since it is quite common to have a family member belonging to the church.

Since its inception, the Evangelical movement has created a territory-network with local and global aims. Acting on different geographic scales, evangelicals deal with issues pertaining to the local community, like internal solidarity networks, and moving beyond in order to form a cross-border community. Evangelicals are firmly rooted in the local communities, from where it is possible to formulate strategies of unifying expansion among Romanies from different backgrounds as well as geographically dispersed, and even to other Romani evangelical denominations. A pastor and coordinator from a Romani evangelical mission told me about their intention of launching a large-scale missionary action beyond Brazilian borders and admitted that they have already many transnational activities, mentioning meetings in other countries. A Spanish pastor from the Romani Philadelphia Church mentioned activities in Portugal, where according to him more than 300 churches exist, and his will to expand the mission in South America, where there are already some churches operating among Romanies of Iberian ancestry.

The first example also provides some evidence of the independent organizational model on which the Evangelical movement relies. While Roma



activism/secular associations depend heavily on non-Romani organizational structures which operate according to the rules of others,

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Pentecostalism differs significantly from these associations because of the fact that it has spread among Gypsies independently, that is, it is led, financed and administered by them. This has kept them essentially apart from the non-Gypsy world, from public subsidies and from the trappings of administrative power (Cantón Delgado 2014, 83–84).

It is not yet clear if the Brazilian Calon groups will take full leadership upon themselves in the control of the religious spaces and activities, as it is happening in Spain, for example, but there are increasingly more Calon pastors working on this.

## 5. Conclusion

Both movements – political secular and religious – are transnationally based in well-developed diasporic narratives that connects all Romanies in a single body. However, only evangelicals have been successful in reaching Romanies because they have acted locally and combined different spatial scales, from local to regional to transnational. While some activists tend to see multiculturalism and multi-territoriality as an almost insuperable drawback for the development of the Romani people in terms of unity, Pentecostalism seems to play a significant role in the development of some Romani communities, acting as a (trans)national link among them. As a global movement, Pentecostalism is part of modern, global, and transnational processes, being conducted by travelling evangelists that operate as transnational religious entrepreneurs (Droogers 2014, 197–198) and the Romanies make up a significant part of the movement's constituency.

The autonomy and leadership achieved by evangelicals are key issues. The pastors and missionaries are very connected with the places they are responsible for, resulting in a grassroots leadership. Unlikely the secular associations that are supported mainly by the state or formal institutions, evangelicals are not eligible to receive this kind of support, which results in a greater level of autonomy.

In investigating the development of a transnational community, I have suggested that territory is a precondition for any Romani movement, not in the form of a state but as conceived by the territory-network model. Stateless status cannot be equal to a de-territorialized condition; thus such a development must go beyond achieving recognition by other states as a dispersed and transnational minority.

I am not advocating the replacement of networks by the delineation and the domination of territorial forms. I mean the forging of a network without neglecting the place (a meeting point) – both symbolic and physical – as a way to

reach people. As Romanies are unlikely to demand a territorial and ethnic state in the near future, they can articulate their interests through a territory-network, overcoming the precariousness of exclusionary territorialization imposed by others. Rather than a substitute for territorial sovereignty, such a territory-network will represent an improvement in the territorialization of groups, forming a series of spatial webs that could facilitate the free movement of Romanies across diasporic networks. Targeting only international structures and accepting the extraterritorial fallacy will not alleviate the Romani condition. If the lack of financial resources is an obstacle for Romani activists, internationalization alone cannot compensate for the domestic failures of representation and obliteration.

Demands are addressed to political entities, like states, so the Romanies' voices should aim at these entities, since they cannot leave the states' political spaces, and the achievements of the Romani associations that act at the national level are very important. However, it seems necessary also to act at a level other than that of the state. One possible option is to launch shared transnational projects among people and communities on a local scale in a territorializing way, aiming to create a territory-network that will also enable face-to-face communication (highly valued among Romanies). The achievement of targets at one level will reinforce the other levels. Furthermore, simply eliminating traditional authority from the local communities and its norms in order to start something new will not provide a link between local and transnational actors. Such a link must be based on deeper dialogue among the parties.

The Evangelical movement, however, is developing trans-state networks with their co-ethnics in other countries with physical gathering spaces where weekly or even daily meetings take place, sustained by a common language – a religious one – and a shared diasporic notion. Religions have always crossed borders and Romani Pentecostalism is no exception. Evangelism and its actors not only create polycentric networks with key nodes in places with high concentration of Romanies, but also reaffirm some traditions and craft new ways of relocating the self and the community as part of a scattered group. The Brazilian and Spanish cases show how evangelicals are creating a transnational community based on a territory-network logic.

We should recall that besides scale and form of spatial control, another key element in understanding the processes shaping diasporic flows, including cross-border relations, is the political and social context in the countries investigated in this research. In this sense, the establishment of democracy in the Iberian countries as well as in Brazil, alongside economic constraints through space and time, should be examined carefully in order to highlight other dimensions of the emergence and perpetuation of these networks.

The present study raises a number of issues which is still too early to address. To what extent are the activists willing to recognize the importance of the religious socio-spatial organizations and networks and its capability of

uniting Romanies? How will the question of different leaderships and diasporic narratives evolve? How do re-diasporization processes impact on the emergence of collective projects, including political ones?

One possible direction for future research could be to examine Romani transnational networks on the American continent – linking to Europe as well – from various points of view, in order to identify how Romanies are dealing with diversity of identity and trying to achieve greater unity in order to act politically in a more effective way. At the moment, I am not aware of any ongoing research on this topic in the Americas.

## Interviews

Interviewee 1 – Spanish Gitano, male, mid-forties, Madrid, Spain.

Interviewee 2 – Calon, male, mid-fifties, São Paulo, Brazil.

Interviewee 3 – Roma, male, pastor, mid-fifties, São Paulo, Brazil.

Interviewee 4 – non-Romani, pastor, mid-fifties, São Paulo, Brazil.

Interviewee 5 – Portuguese Calon, male, mid-sixties, Santa Catarina, Brazil.

Interviewee 6 – Brazilian, male, pastor, mid-thirties, Paraná, Brazil.

Interviewee 7 – Spanish Gitano, male, pastor, mid-fifties, Andalucía, Spain.

Interviewee 8 – Spanish Gitana, female, mid-thirties, Andalucía, Spain.

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## Notes

- <sup>1</sup> In general, I use the term Romani with reference to a clearly-defined ethnic community of allegedly Indian origin that migrated to the Western world, regardless of their way of life (Marushiakova 2008, 468–469). It is used alongside the term Gypsy (whose translation could be *Cigano* in Portuguese and *Gitano* in Spanish). Roma (and many subdivisions like Kalderash, Matchuaia, Lovari, among others), for instance, is the word which most Romanies of Eastern European background use to refer to themselves, and Calon (also called *Gitanos* and *Calé*) is used to designate Romanies whose ancestors came to Brazil from the Iberian countries.
- <sup>2</sup> In Brazil, Roma people with an Eastern European background usually speak Romani (although not all of them) while Calon – Romani people from Iberian countries – speak Portuguese and sometimes a language that combines aspects of Romani and Portuguese (*Chib*).
- <sup>3</sup> In spite of being the most important denomination among Romanies, Pentecostalism is not the only one. In Brazil there are, for example, Baptists missionaries that operate in coordination with other Evangelicals.
- <sup>4</sup> I obtained this information through informal interviews with a Portuguese Calon (Interviewee 5).
- <sup>5</sup> An observant participation conducted in one Roma church and some meetings in a Calon encampment confirmed the cultural changes through evangelization.
- <sup>6</sup> As Anna Mirga pointed out: “Romani leadership patterns are complex and often include a combination of different social roles and positions / ... / In Spain, where the Evangelical church is especially well-rooted in the Romani community, Romani pastors often form civic associations, combining multiple roles – not just as spiritual leaders, but also as activists collaborating closely with the public administration” (Mirga 2015, 33).
- <sup>7</sup> Some pastors work with different Romani groups at the same time and claim to unite all of them.
- <sup>8</sup> There are many blogs, websites and social pages devoted to the evangelization of Romanies and evangelical community development. See, for an example, *Ciganos Evangelicos*.
- <sup>9</sup> For more on this, see for example Manuela Cantón Delgado et al. (2004) and Ruy Blanes (2008).
- <sup>10</sup> As Haesbaert states, “Place is to Anglo-Saxon geography what territory is to ‘Latin geographies’” (Haesbaert 2013, 147).
- <sup>11</sup> There were some projects to support economic development in Roma communities in ways that contribute to Romani nation-building (Tanaka, 2015).



## About the Contributors / *O avtorjih*

### Milan Bufon

Milan Bufon was Associated Professor and Chair of Political Geography at the Department of Geography at the University of Ljubljana (1997-2003), Full Professor of Human and Political Geography at the Department of Geography of the University of Primorska (Koper, Slovenia) in 2003-2017, and is currently Research Professor at the Science and Research Centre in Koper. He co-founded the Faculty of Humanities of the University of Primorska and was its first Head of Department from 2003 to 2007. He also served as the Director of the Institute for Mediterranean Humanities and Social Studies at the Science and Research Centre in Koper – ZRS (1996-2007) and as Director of the Institute for Geographical Studies at the same Centre (2007-2011). He led several national and international research programmes and projects concerning convergence and divergence social and spatial processes in Europe, and particularly in the Upper Adriatic. He is member of several scientific international associations and visiting professor at several universities in Europe, the US and Japan. He also served as the first Vice-Rector for research at the University of Primorska (2003-2007) and was President of the Slovene Research Institute in Trieste (Italy) in 2004-2016. For his commitment to European Studies he was appointed “Jean Monnet professor” by the EU.

*Milan Bufon je bil izredni profesor in vodja katedre za politično geografijo na Oddelku za geografijo Univerze v Ljubljani (1997-2003) ter redni profesor družbene in politične geografije na Oddelku za geografijo Univerze na Primorskem (Koper, Slovenija) v obdobju 2003-2017. Trenutno je raziskovalni profesor na Znanstveno raziskovalnem središču v Kopru (ZRS). Bil je soustanovitelj Fakultete za humanistične študije Univerze na Primorskem in prvi predstojnik njenega Oddelka za geografijo (2003-2007). Bil je vodja Inštituta za mediteranske študije ZRS (1996-2007) in nato Inštituta za geografske študije na istem zavodu (2007-2011). Vodil je številne raziskovalne projekte in programe na področju družbene in prostorske konvergence in divergenca, s posebnim poudarkom na območju Zgornjega Jadrana. Je član različnih strokovnih združenj in gostujoči profesor na številnih univerzah v Evropi, ZDA in na Japonskem. Bil je prvi prorektor za znanstveno in razvojno dejavnost na Univerzi na Primorskem (2003-2007) in predsednik Slovenskega raziskovalnega inštituta (SLORI) v Trstu (2004-2016). Za svoje delo na področju evropskih študij je od EU prejel naziv “Jean Monnet Professor”.*

## Simona Kuti

Simona Kuti is a research associate at the Institute for Migration and Ethnic Studies (IMIN), Zagreb. In 2011 she completed her PhD at the Department of Sociology of the Faculty of Humanities and Social Sciences, University of Zagreb. Her research interests pertain to the fields of the sociology of migration, sociology of space and sociological theory. She has published more than 25 scientific and professional papers (alone or in co-authorship), and co-authored a book. She has presented papers at a number of international scientific conferences and has participated in several national and international research projects. She lectured at the Department of Sociology of the University in Zadar (2014-2015). Since 2010 she has been a member of the organizing and academic committee of the international postgraduate course Divided Societies (Inter-University Centre, Dubrovnik). She is a member of the Croatian Sociological Association.

*Simona Kuti je raziskovalna sodelavka na Inštitutu za migracije in etnične študije (IMIN) v Zagrebu. Doktorski naziv je pridobila na Oddelku za sociologijo Fakultete za humanistične in družboslovne študije Univerze v Zagrebu leta 2011. Njena raziskovalna področja so sociologija migracij, prostora in sociološka teorija. Objavila je več kot 25 znanstvenih in strokovnih člankov (sama in v soavtorstvu), v soavtorstvu je objavila knjigo. Z referati je sodelovala na številnih mednarodnih znanstvenih konferencah, kakor tudi pri številnih domačih in tujih raziskovalnih projektih. Predavala je na Oddelku za sociologijo na Univerzi v Zadru (2014-15). Od 2010 je članica organizacijskega in akademskega komiteja mednarodnega podiplomskega tečaja Razdeljene družbe (Meduniverzitetni center Dubrovnik) in je članica Hrvaškega sociološkega društva.*

## Ksenija Vidmar Horvat

Ksenija Vidmar Horvat is full professor of Sociology of Culture and leads the Research program group Social Contract in the 21st Century. Her research interests include Social theories of europeanisation, cosmopolitis and identity, Cultural and postcolonial Theory, nationalism and gender issues.

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## Lucius Caflisch

Lucius Caflisch is Emeritus Professor of Public International Law, The Graduate Institute of International and Development Studies, Geneva. He was the Legal Adviser of the Swiss Federal Department of Foreign Affairs, Berne (1991-1998); Judge of the European Court of Human Rights (1998-2006); and a member of the International Law Commission of



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## Robert Knight

Robert Knight studied history at Cambridge, Würzburg and the London School of Economics, where he completed his PhD on British Policy towards Occupied Austria 1945-1953. He has published widely on aspects of post-war Austria, including an edition of Austrian cabinet minutes about compensation and the restitution of Jewish property and the Cold War. Most recently his monograph on Slavs in post-Nazi Austria: the politics of Assimilation 1945-1960 was published by Bloomsbury. His other publications on the Carinthia include articles in *Carinthia I*, the *International History Review* and the *Journal of Modern History*. From 1998 to 2002 he was a member of the Austrian Historians' Commission, set up to investigate Nazi 'aryanisation' and post-war restitution policy. He is Senior Lecturer in International History at Loughborough University, UK.

*Robert Knight je študiral zgodovino na univerzah Cambridge in Würzburg ter na London School of Economics, kjer je zagovarjal doktorsko disertacijo z naslovom Britanska politika do okupirane Avstrije v letih 1945-1953. Obsežno je pisal o različnih vidikih povojnega življenja v Avstriji, urejal pa je tudi avstrijske vladne zapise o kompenzaciji in vračanju judovskega imetja in o hladni vojni. Pred kratkim je pri založbi Bloomsbury izšla njegova monografija z naslovom Slovani v postnacistični Avstriji: politika asimilacije 1945-1960. Med njegove druge publikacije o Koroški sodijo članki v revijah *Carinthia I*, *International History Review* in *Journal of Modern History*. Od 1998 do 2002 je bil član Avstrijske zgodovinske komisije, ustanovljene z namenom raziskati nacistično arijanizacijo in povojno politiko vračanja. Je višji predavatelj na Oddelku za mednarodno zgodovino na Univerzi Loughborough v Angliji.*

## Rebeka Mesarić Žabčić

Dr. sc. Rebeka Mesarić Žabčić, scientific advisor, is employed at the Institute for Migration and Ethnic Studies, Zagreb and is largely engaged in research related to Croatian emigrants. In 2002 she received a research grant from the National Research Council and worked in Oslo at the University of Stavanger in Norway. She is a member of the Croatian Geographical Society from Zagreb, the Croatian Heritage Foundation, Croatian - Burgenland - Croatian society (HGH), Alliance for Responsible Plural and United World in Paris, EDRN (European Diaspora Research Network), Croatian World Parliament and AIESEE (As-

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*Dr. Rebeka Mesarić Žabčić, znanstvena svetnica, je zaposlena na Inštitutu za migracije in etnične študije v Zagrebu, kjer se v glavnem ukvarja z raziskavami, ki se nanašajo na hrvaške izseljence. Leta 2002 je bila ob podpori Nacionalnega raziskovalnega sveta v Oslu na Univerzi v Stavangeru na Norveškem. Je članica hrvaškega geografskega društva iz Zagreba, Hrvaške dediščine, Hrvaške - bregljanske - hrvaške družbe (HGH), Zveze za odgovorno množino in Združeni svet v Parizu, EDRN (Evropske raziskovalne mreže za raziskave o diaspori), Hrvaškega svetovnega parlamenta in AIESEE (Mednarodnega združenja za raziskovanje jugovzhodne Evrope). Leta 2005 je doktorirala na Fakulteti za naravoslovje in matematiko v Zagrebu. Sodelovala je na številnih mednarodnih in nacionalnih znanstvenih konferencah ter objavila veliko število znanstvenih člankov in drugih publikacij. Na Univerzi v Zagrebu predava o migracijah na Hrvaških študijah. Diplomatsko akademijo Ministrstva za zunanje zadeve Republike Hrvaške je končala leta 2008. Predstavljala je Hrvaško na Globalnem forumu o migracijah v Manili leta 2008 in tudi v Atenah 2009.*

## Magdalena Vrbanec

Magdalena Vrbanec graduated at the University of Zagreb in Museology and Heritage Management, at Faculty of Humanities and Social Sciences in 2013 and in History at Centre for Croatian Studies in 2011. She worked at the historical department of the Museum of Međimurje Čakovec and gained the museum title of curator. Currently, she is employed at Society of Physically Disabled Persons of the Međimurje County. Her main research interests include emigration and return movements of Croatian migrants and she has published several scientific and professional papers so far.

*Magdalena Vrbanec je diplomirala na Univerzi v Zagrebu na področju muzeologije in upravljanja z dediščino na Fakulteti za humanistične in družboslovne znanosti leta 2013 in iz zgodovine na Centru za hrvaške študije leta 2011. Delala je na zgodovinskem oddelku Muzeja Međimurja Čakovec in pridobila muzejski naziv kuratorja. Trenutno je zaposlena v Društvu za telesno prizadete Međimurske županije. Njeni glavni raziskovalni interesi vključujejo izseljevanje in povratno gibanje hrvaških migrantov. Doslej je objavila več znanstvenih in strokovnih člankov.*

## Matjaž Klemenčič

Matjaž Klemenčič is Professor of history at the Faculty of Arts of the University of Maribor and Chair of the American Studies Center. He is the author or co-author of 10 books

and numerous articles, which he published in numerous journals in Europe and overseas - most notably in the Journal of American Ethnic History, and Journal of American History. In his work he deals with history of Carinthian Slovenes (with Vladimir Klemenčič: Die Kärntner Slowenen und die Zweite Republik), dissolution of former Yugoslavia (with Mitja Žagar: The former Yugoslavia's diverse peoples : a reference sourcebook), and history of Slovenes in the United States with special emphasis on their settlements (5 books; among them Slovenes of Cleveland; and with Karl Pugelj: Jim Pugel and other Slovenian pioneers of Pueblo, Colorado).

*Red. prof. dr. Matjaž Klemenčič predava na Filozofski fakulteti Univerze v Mariboru predava in je vodja Centra za ameriške študije. Je avtor in so-avtor 10 knjig in številnih člankov, ki jih je objavil v številnih revijah v Evropi in drugje – med katerimi so tudi Journal of American Ethnic History in Journal of American History. Pri svojem delu se ukvarja z zgodovino koroških Slovencev (z Vladimirjem Klemenčičem: Die Kärntner Slowenen und die Zweite Republik), z razpadom Jugoslavije (z Mitjo Žagarjem: The former Yugoslavia's diverse peoples: a reference sourcebook), z zgodovino Slovencev v ZDA, s posebnim poudarkom na njihovo poselitev (5 knjig; med njimi Slovenci v Clevelandu; in s Karlom Pughjem: Jim Pugel in drugi zgodnji priseljenci v Pueblu, Colorado).*

## **Maruša Verbič Koprivšek**

Maruša Verbič Koprivšek has obtained her BSc in Geography and her PhD in American Studies. For her dissertation Development of the Slovenian settlement in Denver, Colorado, for which she conducted an extensive two-month field research in the U.S., For her PhD she has been awarded by the Republic of Slovenia Government Office for Slovenians Abroad. In 2014, she published a scientific monograph entitled Development of an Ethnic Settlement in the Case of Slovenes in Denver. Currently, she is employed as a PhD research assistant at the Department of Geography at the Faculty of Arts, University of Maribor.

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## **Lana Vidmar**

Lana Vidmar completed her B.Sc. in Banking and Finance at the Faculty of Economics, University of Rijeka in 2004, and M.Sc. in Financial Management at the same Faculty in 2014. She acquired her M.Sc. in Political Science at the Faculty of Social Sciences, University of Ljubljana. Her expertise relates to indigenous peoples and financial analysis. She works as independent researcher and is stationed in Bergen, Norway.

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## **Marcos Toyansk**

Marcos Toyansk is a researcher and group leader at the Laboratory of Studies on Ethnicity, Racism and Discrimination at the University of São Paulo (LEER-USP). He has a PhD in Human Geography from the University of São Paulo (2012) and undertook post-doctoral research at the University of Seville (2015-2016). His major fields of interest are: ethnic studies, Romani minorities, borders, spaces, places, transnationalism and diasporas.

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**General** — The editorial board of **Treatises and Documents, The Journal of Ethnic Studies** welcomes the submission of scholarly articles in the field of ethnic and minority studies, especially on racial and ethnic relations, ethnic identity, nationalism, xenophobia, the protection of (ethnic, national, linguistic, religious, and other) minorities, migration, multiculturalism and related subjects. The journal is particularly interested in discussions regarding ethnic and minority issues in the so-called Alpine-Adriatic-Pannonian area and all comparative studies, which include – only partially or as a whole - this geographic area. This area comprises the Alpine arc, the hinterland of the eastern Adriatic and Pannonian Basin. More technically, this area includes the following countries: Albania, Austria, Bosnia and Herzegovina, Croatia, Czech Republic, Italy, Germany (especially the southern part), Hungary, Kosovo, Montenegro, Romania, Serbia, Slovakia and Slovenia. Also Macedonia and Bulgaria may be interesting cases.

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- the submitted article, with the title in the language of the article and in English;
- an abstract of the article in the language of the article and in English; this should include a brief presentation of the issues discussed, the methodology used, the main findings and the conclusions;
- 3 – 7 key words in the language of the article and in English.

The length of the title, the abstract and the key words in one language should not exceed 1,100 characters (including spaces). More detailed information about the form of submitted manuscripts is presented in the prescribed template, available at the journal's website (<http://www.inv.si>).

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