Turkey’s violence in the Kurdish region

The Turkish state recently declared curfew in Kurdish regions which are Cizre, Silopi and in Nusaybin. 52 curfews have been imposed since mid-August across this region. Even though Tens of Kurdish citizens have been killed, the Turkish media chooses to remain silent about the government terror. Why are the Turkish people closing their eyes when it comes to Kurdish people’s basic human rights that are being abused, while Kurdish civilians are being killed by the Turkish state?

Understanding Statelessness: “What connects Tom Hanks, Osama Bin Laden and Albert Einstein?”

Three weeks ago I attended the First Global Forum on Statelessness, which was held in the beautiful location of the Peace Palace in The Hague. More than 300 participants from 70 different countries came together to discuss a topic which has always received limited attention in spite of its global nature. I am neither an academic, nor I did represent a specific organisation at the Forum. More so, I am genuinely interested in the issue of statelessness, and I would like to turn this passion into a career.

In case you are not familiar with the concept of statelessness, the 1954 Convention Relating to the Status of Stateless Persons gives the following definition: “a person who is not considered a national by any State under the operation of its law” (Article 1). The absence of a legal bond of nationality between a person and a State leaves individuals particularly vulnerable to human rights violations and discrimination. Statelessness is a condition which affects more than 10 million people worldwide and it occurs for a variety of reasons. You can read more about this issue in an article I wrote

for IWB last June (Statelessness: what is it and how does the international community address the issue? –

http://issueswithoutborders.com/?p=409). However, what I would like to talk about here is how I became so passionate about this topic, and to discuss why statelessness is an issue which deserves more attention from academics, governments and civil society.

Although I have always been interested in researching human rights, about one year ago I came across a question which aroused my curiosity even more:

“What connects Tom Hanks, Osama Bin Laden and Albert Einstein?”

Reading those three names in one single sentence is beyond a doubt bizarre; one would think they have no connection at all. However, all three represent different ways in which people can be affected by statelessness. Osama Bin Laden was stripped of his Saudi Arabian nationality in the 1990s in response to his criticism of the regime ruling at that time. Albert Einstein, on the other hand, was stateless for five years after renouncing his German nationality at the end of the 19th century. The third name, however, requires a clarification: Tom Hanks is not himself a stateless person, but in the movie *The Terminal* he played the role of Victor Navorski, a man whose state breaks up, leaving him stateless. As a result, he is stuck at JFK Airport and forced to live there for nine months. The story of Victor Navorski explains how a person can find himself suddenly stateless without knowing that is happening and without having done anything to cause this. (What connects Tom Hanks, Osama Bin Laden and Albert Einstein? –

http://statelessprog.blogspot.be/2014/01/what-connects-tom-hanks-osama-bin-laden.html).

“Currently, you are a citizen of nowhere… You don’t qualify for asylum, refugee status, temporary protective status, humanitarian parole, or non-immigration work travel. You don’t qualify for any of these. You are at this time simply… unacceptable.”

A quotation from a movie can be quite powerful. These few lines perfectly illustrate the condition and the status of millions of stateless persons: citizens of nowhere, or ‘Nowhere People’ – which is also the title of an amazing photo exhibition on statelessness of the award-winning photographer Greg Constantine (You can see the photos and find out about Greg Constantine’s work here: Nowhere People – www.nowherepeople.org).

The Global Forum has been a unique opportunity for bringing together experts on statelessness from all around the world in one room, explore new dimensions of the issue and discuss it from many angles. Some stateless and formerly stateless persons were able to attend the Forum and share their experiences with all the participants. Listening to their stories and the many obstacles they had to face, and still have to face day by day, has been a touching moment which, I’m sure, left a mark in all of us in that room. I

wish everyone could hear the stories of these people to understand the terrible impact statelessness has on the life of individuals. The Forum has been an inspiration for me as well as many others to keep researching and raising awareness on statelessness, and advocate for change in policies and practices of governments and international organisations. Still much needs to be done to solve the issue of statelessness, but seeing so many academics and representatives of governments and international agencies exploring this theme, trying to answer fundamental questions on the topic and raising new ones is an important step forward to give statelessness the attention it deserves.

"To be stripped of citizenship is to be stripped of worldliness; it is like returning to a wilderness as cavemen or savages…they could live and die without leaving any trace."

Hannah Arendt

Female Genital Mutilation between Human Rights and Tradition

Female circumcision is a form of gender-based violence and a fundamental violation of the rights of girls and women. The World Health Organisation (WHO) defines female circumcision, or female genital mutilation (FGM) as: 'all procedures that involve partial or total removal of the external female genitalia, or other injury to the female genital organs for non-medical reasons.' An important complication in ending FGM is that it is a deeply entrenched social norm, practiced in 29 countries in Africa and the Middle East. According to a statistical overview provided by UNICEF in 2013, more than 125 million of the girls and women living in these countries have experienced FGM (2013, UNICEF – *Female Genital Mutilation/Cutting: a statistical overview and exploration of the dynamics of change*).

Despite the absence of data collection, it is estimated that also in some EU

countries women and girls are at risk of FGM. Because of this the practice has gained more attention in the EU during recent years.

The WHO identified four major types of FGM:

- The *clitoridectomy* is the partial or total removal of the clitoris;
- The *excision* is the removal of all the clitoris and the inner labia (lips that surround the vagina), with or without removal of the labia majora (larger outer lips);
- The *infibulation* is the narrowing of the vagina opening by creating a seal, formed by cutting and repositioning the labia;
- Girls and women can be subjected to other harmful procedures for non-medical purposes, like pricking, piercing, incising, scraping and cauterising the genital area.

As was quoted above, female circumcision has no health benefits. Even more so, FGM alters the natural functions of the woman's body and it can be harmful in many ways. Further, the procedure carries great risk and can generate immediate consequences such as severe pain, shock, haemorrhage, sepsis (bacterial infection), urine retention, and / or injury to nearby genital tissue. Additionally, FGM can produce long-term implications like cysts, damage to the external reproductive system, uterus or vaginal infections, complications in pregnancy and child birth or psychological damage. Because of the potential destructive effects, there are cases when it is necessary for circumcised women to undergo further surgeries later in life. (WHO – *Female genital mutilation*).

The age at which female circumcision is practiced differs from one ethnic group to the other. It can vary from shortly after birth to after delivering the first child, but mostly it is carried out on girls whose age is between four and ten. Although in urban areas female circumcision can be performed in a hospital, in rural African areas the procedure is often carried out by an old woman of the village with no medical training. Besides, often basic tools are used such as knives, scissors, razor blades or pieces of glass. The hygienic conditions in which the procedure occurs are, therefore, very poor

most of the times.

The practice is supported by a wide range of motives and justifications which are deeply-rooted into the cultural and historical situation of the societies where FGM is mostly carried out.

The two main justifications for FGM are religion and tradition. Since it is mainly practiced in Muslim communities, female circumcision acquired a religious dimension. However, in the risk countries FGM is practiced by followers of different beliefs, such as Christians, Animists and Jews. It would be therefore wrong to identify the procedure only with the Islamic faith. Besides, it is not practiced by all Muslims. Even more important than perceiving female circumcision as a religious obligation, social pressure is imposed on individuals trough family and community members. Those who do not implement the practice would be excluded and ostracised from the community life.

It can be claimed that tradition and not religion is the main origin of the justifications supporting FGM. While many traditions promote social cohesion, others do great harm to the physical and psychological integrity of individuals. FGM is perceived as an initiation rite, a transition in status from girlhood to womanhood and marriageable age[1] (Before the initiation through mutilation, the girls are kept in seclusion for at least two weeks and they get instructed about morality, social codes, being a good wife, behaviours around elders and other age groups (2009, African-Women.org – *Myths and Justifications for the Perpetuation of FGM*).

Among sociological reasons, the sexual and marriage factors are essential. In many Third World countries, marriage is necessary for a woman's survival. Finding a husband and reproducing are the ways a woman can reach economic stability and social status. In order to get married a girl needs to be a virgin, otherwise both the girl and her family could face social consequences. FGM is considered as a way to ensure virginity. Alongside this justification, women are also believed to be weak when it comes to emotion and the control of their sexuality; circumcision is expected to control

women's sexuality. However, even though FGM may reduce physical feelings, it cannot reduce the desire and it is not assurance of chastity (Dr. Ashenafi Moges – *What is behind the tradition of FGM?*).

Psychological reasons play also an important role, particularly regarding gender identity. FGM is often considered a necessary practice in order for girls to be considered a complete woman. Clitoris and labia are seen as 'male parts' of a woman's body, and clitoris is also considered to be ugly on a girl. The practice eliminates any indication of maleness in a woman's body and makes a woman feminine (Amnesty International – *End FGM European Campaign*).

Another justification for the practice of FGM is the fact that it contributes to the cleanliness and beauty of women, since an unmutilated woman is considered dirty and polluted. It is believed that secretions produced by the glands in the clitoris, labia minora and majora are bad smelling and unhygienic, therefore their removal makes the body clean. In reality, by closing the vulva and preventing the natural flow of urine and menstrual flow, FGM could lead to uncleanliness. (Dr. Ashenafi Moges – *What is behind the tradition of FGM?*).

As argued before, the practice of FGM is, in any form, internationally recognised as a violation of the human rights of girls and women. Despite that several actions have been taken to address the issue on an international level, they were mostly unsuccessful. The interventions were often external, and those who tried to tackle the problem ignored the social and economic context of the countries were FGM is practiced. Some actions taken by Western feminists and human rights activists were also met with resistance and negative reactions from locals; these initiatives were considered as condescending and derogatory toward their culture. (1997, Frances A. Althaus – *Female Circumcision: Rite of Passage Or Violation of Rights?*)

The rights of women and girls, which the practice of FGM violates, are protected in several international and regional instruments such as the International Covenant on Civil and Political Rights (ICCPR), International

Covenant on Economic, Social and Cultural Rights (ICESCR), Convention Against Torture, Convention on the Elimination of Discrimination Against Women (CEDAW) and Convention on the Rights of the Child (CRC), the European Convention of Human Rights and the Charter of Fundamental Rights of the European Union.

Both national and domestic legislation did not prove to be successful in eliminating FGM. At the contrary, they forced to carry out the procedure in secret and unsanitary areas, increasing health risks for girls and women. (Jessica A. Platt – *Female circumcision: Religious practice v. Human rights violation*)

Some international organisations have therefore developed new ways to address the issue. They support local activist groups with funding, training and technical expertise instead of being directly involved. A positive way to address female circumcision can be through education and women's empowerment. Educational groups in the countries where FGM is mostly practiced can give women knowledge about the operational procedure involved in female circumcision, the different forms of FGM, and inform them about the procedure's potential health risks. (Jessica A. Platt – *Female circumcision: Religious practice v. Human rights violation*). In order to establish a balance between religious beliefs and the promotion of human rights, the clinicalisation of female circumcision or the implementation of mild forms of circumcision that can be carried out in a hospital at the birth of a female child can be promoted[2]. (The *sunna*, for instance, is a form of circumcision practiced in Somalia under sterile and anaesthetic conditions and which drastically decrease the possibilities of casualties).

Finally, circumcision through words can be encouraged. It is a way to implement the practice spiritually rather than physically through a programme of training, counselling and informing girls on anatomy, physiology, sexual and reproductive health, gender issues. The program is followed by a ceremony performed in front of the entire community which represents the rite of passage of girls into womanhood. Circumcision through words is a spiritual alternative which allows women to practice their religion without risking

their health. (Jessica A. Platt – *Female circumcision: Religious practice v. Human rights violation*)

The practice of female circumcision derives from complex belief systems. Many efforts to eradicate the practice originated from outside the community often met with hostility from the community practicing them: the idea of ending their tradition is inconceivable, and Western pressures for change is perceived as culturally imperialistic. This is why actions to stop female circumcision are most likely to be effective when they originate within the culture that practices them. (1998, Lauren Hersh – *Giving Up Harmful Practices, Not Culture*).

Addressing FGM requires a long-term commitment and a collective effort. There are no easy or quick solutions. Female circumcision needs actions from different sectors and on different levels. The international community plays an important role in raising awareness on the issues, but legislation alone is not sufficient to end FGM. Engage the communities where the practice is widely spread, and adopt programmes that include empowering education – with a special focus on women's empowerment – is a good way to develop knowledge and consensus at community level. (2008, WHO – *Eliminating Female genital mutilation*).

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Statelessness: what is it and how does the international community address the issue?

Most of us acquire citizenship at birth, and it is something we often take it for granted. Citizenship is something we think about only "when we travel abroad, when the Olympic Games are on, or when we vote in national elections" (2009, Couldrey M. & Herson M. *Stateless*). However, for those who lack recognition as nationals, citizenship is a fundamental issue. Holding a nationality is the key to enjoy basic rights such as health care, education, access to the national judicial system or employment. A stateless person is someone who is not recognised as a national by any State. In a world of nation-states, it is a cruel contradiction that millions of individuals are not recognised as belonging to any of these.

The 1954 Convention relating to the Status of Stateless Persons defines a 'stateless person' as "a person who is not considered a national by any State under the operation of its law" (article 1). The absence of nationality or citizenship makes stateless people vulnerable in any aspect of their life and often subjected to the denial of basic human rights. The lack of official recognition does not mean that stateless people do not have ties to a

particular country. However, because of a wide range of possible circumstances, they find themselves in the situation of not being recognised as citizens.

Statelessness is prohibited under international law. Yet, the United Nations High Commissioner for Refugees (UNHCR) estimates that there may be as many of 12 million stateless people in the world. In order to give a more precise definition of what makes a person stateless, a first important distinction needs to be made between *de jure* and *de facto* stateless people. “Under the 1954 Convention, individuals who have not received nationality automatically nor through an individual decision under the operation of any state’s law, are known as *de jure* stateless persons.” (2009, Blitz BK, *Statelessness, protection and equality*) However, there is a large number of people who are unable to prove their nationality or they are denied to access many human rights that other citizens enjoy. These people are considered *de facto* stateless.

International law guarantees stateless persons the enjoyment of human rights. However, they frequently cannot access their rights. For instance, they may find barriers in accessing basic education, health care or other government services, obtaining travel documents, being employed. Stateless persons are also likely to be victims of trafficking or sexual and labour exploitation. Discrimination and inequality are common to any form of statelessness. Still, it is helpful to make a distinction between “*direct discrimination* on the basis of nationality, which is formally recorded in law, and *structural discrimination* that may be indirect but nonetheless denies individuals the opportunity to benefit from citizenship.” (2009, Blitz BK, *Statelessness, protection and equality*)

Another useful distinction is between *primary* and *secondary* sources of statelessness. “Primary sources relate to direct discrimination and include: a) the denial and deprivation of citizenship; b) the loss of citizenship. Secondary sources relate to the context in which national policies are designed, interpreted and implemented and include: c) political restructuring and environmental displacement; d) practical barriers that prevent people

from accessing their rights.” (2009, Blitz BK, *Statelessness, protection and equality*)

How do people become stateless?

The largest populations of non-refugee stateless persons in UNHCR statistics are Myanmar with 810,000 Rohingya (the number only includes the Rohingya in northern Rakhine State), Cote d’Ivoire (700,000), Thailand (506,000) Latvia (312,000), Syria (231,000) and Dominican Republic (210,000).

Statelessness may result from different circumstances. In general, the denial of citizenship is the result of a state action which could be intentional or not. State secession or succession, often but not necessarily following conflicts, may cause statelessness: the dissolution of a State and emergence of new States; the separation of part of a State to form a new one; the transfer of a territory from one State to another.

Other causes of statelessness are the arbitrary denial or deprivation of citizenship on the ground of ethnicity (in law or in practise) or discrimination on ground of gender. In particular, the contribution of gender discrimination to generating statelessness is extensive: 27 countries in the world limit the right of women to pass their nationality to their children (only men can). Children become stateless when they cannot acquire nationality from their father. This can occur, for example, when the father is stateless; when he is unknown or not married to the mother at the time of birth; when he has been unable to fulfil the necessary administrative steps to confer his nationality or when he is unwilling to confer his nationality to his children; etc. Although there are differences between the limits they impose on mothers to confer their nationality to their children, some of the 27 countries whose nationality laws discriminate against female gender are: Brunei Darussalam, Iran, Jordan, Kuwait, Malaysia, Nepal, Qatar, Saudi Arabia, Sierra Leone, Somalia and Syria.

Statelessness may also be caused by documentation issues like lack of

registration at birth, or the existence of rules for proving nationality which make it difficult for individuals to establish that they possess a nationality. Finally, it can also be the consequence of climate and environmentally induced displacement. In the poorest regions, many minorities live without any documentation, and this kind of technical problem can cause the lack of citizenship.

The way a country grants citizenship at the moment of birth is a matter of interest and concern for those who operate to prevent statelessness. The most common principles for granting citizenship are the *jus soli* and the *jus sanguinis*. Nationality policies based on the Jus soli's principle confer citizenship to all those born in the territory of a country, while those based on Jus sanguinis grant citizenship on children whose parents are citizens of a given country. In practise, nationality policies which prioritise blood over civic criteria make the incorporation of minorities more difficult.

Addressing statelessness

During the 1920s, it was common to make no distinction between stateless and refugee statuses. Lack of protection of Government of their country or origins or any other Government was common to both statuses. Nevertheless, the issue was a matter of concern to nation states and to the League of Nations, which encouraged measures to address the problem. It is, however, only after the massive population displacements following the Second World War that the stateless issue was reintroduced into the international agenda as a separate issue from the refugee problem.

The right to nationality has been elaborated in two United Nations' international conventions: the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. Although the two conventions have not been ratified from a large number of States, both are fundamental international instruments for the prevention and protection of stateless persons. Originally, norms regarding statelessness

were to be included in a Protocol to the 1951 Convention relating to the Status of Refugees, however due to the need of dealing with the large amount of post-war refugees, the Convention was adopted without the inclusion of the Protocol. Later, the two fundamental agreements that brought the attention of the international community to the discourse on statelessness were adopted.

Providing a definition of ‘stateless person’, the 1954 Convention Relating to the Status of Stateless Persons gives a fundamental contribution to international law. The Convention requires that States facilitate the assimilation and naturalisation of stateless persons. It also provides minimum standards of treatment. For instance, it defends the right to freedom of movement lawfully on the territory; for some rights such as freedom of association and right to employment, it requires States to guarantee at a minimum the same treatment as other non-nationals; with respect to freedom of religion and education to their children, it provides that stateless persons are to enjoy the same rights as citizens.

The 1961 Convention on the Reduction of Statelessness sets rules on States to prevent and eliminate statelessness. By doing that, the Convention gives effect to article 15 of the Universal Declaration of Human Rights which recognises that “everyone has the right to a nationality”. A central focus of the Convention is the prevention of statelessness at birth. “It requires States to grant citizenship to children born on their territory, or to their nationals abroad, who would otherwise be stateless”(2011, Text of the 1961 Convention on the Reduction of Statelessness – Introductory note by the Office of the United Nations High Commissioner for Refugees).

The Office of the United Nations High Commissioner for Refugees (UNHCR) formally received from the UN General Assembly a specific and global mandate to prevent and reduce statelessness, as well as to protect the rights of stateless people around the world through the adoption of as series of resolutions. The UNHCR activities regarding statelessness can be grouped in four categories: identification, prevention, reduction and protection.

Following the positive steps made by countries and the guidelines provided by

the UNHCR, several specific actions need to be taken to address statelessness. First of all, preventive actions to avoid potential instances of mass deprivation of nationality. It is fundamental to reform citizenship laws, as well as to adopt administrative procedures to eliminate discrimination. UNHCR provides technical advice to implement legal reforms. In 2012 and 2013, the agency worked to address gaps in the national legislation of 56 States, mostly from a gender equality and child protection perspective.

Birth registration is, for instance, a fundamental action that has to be taken both to deal with statelessness and ensure child protection. Georgia and the Russian Federation have implemented pledges regarding civil registration, and birth registration will remain a priority for UNHCR actions.

Protection of stateless children is a matter of particular concern. There are an estimated six million children without a nationality around the world. They are particularly vulnerable to sexual and labour exploitation, abuses and trafficking. Many of them are denied access to basic rights such as education and health care. In spite of the importance of protecting stateless children from the many risks they face, only a few international or national child protection systems include stateless children in their programming.

Identification is also essential, since stateless persons usually lack personal documentation. In this regard, some States have taken positive steps toward pledging to undertake studies and surveys to report the issue. The Philippines is leading the way along with Georgia, Moldova and the UK. These countries implemented stateless determination procedures to improve identification of stateless persons. Other countries have made progress in resolving long-standing situations of statelessness by granting citizenship to stateless population: Côte d’Ivoire, the Kyrgyz Republic, Turkmenistan, Sri Lanka, Bangladesh and the Russian Federation.

UNHCR is also committed to promote accession to the Statelessness Convention. Although the number of States accessing to the two international instruments

is still not very high, an unprecedented wave of accessions has been noticed since 2011. This year marks the 60th anniversary of the 1954 Convention on the Status of Stateless Persons. It is an opportunity to draw attention and increase awareness of the issue of statelessness. Therefore, UNHCR launched a campaign which aims to eliminate statelessness within the next ten years. Some fundamental positive steps have been taken, but there is still much to be done to eliminate a phenomenon which continues to affect the lives of millions of people.

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How I realized what human rights mean in Egypt

For anybody who used to live in Europe, becoming aware of human rights practices in Egypt is a tough experience. A kind of tsumani that makes you understand that there is still a very long way to go to only reach the first step of what could be considered a satisfying situation regarding basic human rights respect. When I look back over my shoulders, three key memories come to mind.

Contrary to what one may think, the first of these memories has nothing to do with political human rights, but is related to workers’ rights, and generally speaking, to mere human dignity. As any newly arrived in Cairo, I faced the difficult task of looking for a decent flat to live in. While visiting dozens of “barely acceptable” apartments, I was unpleasantly surprised by doormen’s living conditions, that were far from being decent, too. All Cairo’s doormen, with no exception, live in dirty, cramped areas, that even can’t be called “flats”. Most often, they encompass a single low-ceilinged room located under the building’s stairs, opening on an inner courtyard whose floor is usually covered in rubbish that residents throw out of their windows. This single room generally hosts the whole doorman’s family, i.e. himself, his wife and their children. They have to manage to organize their whole life in this restricted area: cooking, sleeping, watching television, doing homework, etc.

When the doorman is single, he may even not have the option of “enjoying” a room: he just lives under the stairs, and sleeps on a mattress lying on the

floor. Surprisingly, nobody seems to be shocked by this degrading treatment of human beings. Doormen in Cairo are usually poor people coming from Upper Egypt, who left their villages because they were not able anymore to live honourably off their occupation – fishing, agriculture, etc. -; this is then implicitly admitted that they have to accept any offer, even a degrading one. Buildings never include accommodation for doormen, or only this single ugly room on the ground floor. Architects do not take into account the requirement of a lodge for the doorman. From this perspective, upper classes' areas do not differ from deprived ones: whatever the residents' social class, doormen's accommodation is always similar.

The 2011 revolution brought no change to this situation. Doormen's living conditions are not a matter for discussion. No voice was raised to denounce this flagrant violation of human dignity, either at an individual level or through political parties. While demands for social justice are a common slogan, it never occurred to people that they could include improvement for doormen's living conditions. Social revolution has not started yet.

Frighten practices

The second memory that comes to mind is the account of an Egyptian friend of mine who took part in the 2011 revolution. In his thirties, Maged is an independent movie director who abhors Moubarak's dictatorial regime, and though he was not a political activist, he naturally took to the streets in response to calls for protest. One day, as he was demonstrating, he happened to be caught by police officers and brutally thrown into a police car. He was blindfolded and his hands were tied. Then he could hear the car moving off and racing along to an unknown destination. The car braked suddenly several times, for no apparent reason, then moved off again. At a point, the car stopped in a place that seemed to be located far away from the city, as noise level diminished and lower car traffic volume could be heard. My friend assumed that his abductors stepped out of the car, as he could hear car doors slamming, then voices grew fainter and fell silent.

Maged waited alone a long time. He did not dare neither move nor try to speak

or ask a question to understand what was happening. After a time that seemed like a lifetime, he decided that he may try to make the blindfold slide, in order to free his eyes and get an idea of the place he has been brought to. He succeeded in moving it a bit and was stunned to realize that he has just been left alone in the desert. The car was stopped in the sticks and abductors left for good! My friend could manage to step out, head for a road and come back home. Actually, this practice was very common during Moubarak's rule and was aimed to scare people. Maged was lucky enough that he was neither jailed nor questioned, but this experience resulted in a trauma that he painfully recovered from. It did not deter him from continuing his political struggle, but even reinforced his conviction that the regime should be overthrown.

This fright practice was temporarily brought to an end after Moubarak's ousting, not because security forces were reformed – they were not -, but because they had to retreat from the streets and confined themselves to police stations, for fear of a revenge of the population who hated them. Not surprisingly, police resumed frightening political opponents by means of this specific practice in November 2013, when the government issued a controversial law practically forbidding demonstrations. A group of 50 female protestors were arrested, secretly brought to an unknown destination, then dumped in the desert in the middle of the night.

A torture room within the Senate

My friend Maged was lucky that he was not questioned, but unfortunately, violations of activists' human rights can also be far worse. I remember what happened to one of my colleagues, a French journalist called Samuel, while he was covering parliamentary elections in 2011*. Since clashes erupted between revolutionary young people and security forces on mythic Tahrir square, Samuel had to try several alternate roads to be able to reach event's place. As he crossed a checkpoint, he was arrested by an intelligence services' officer. The whole story is told here, in an article that Samuel wrote immediately after his release. He was taken to several police stations, then to what he calls the "kommandantur" of the "police city": temporary

headquarters of security forces during the clashes were inappropriately located within Senate premises. My colleague realized to his horror that this prestigious institution has been turned into a torture centre. “Traces of blood lied on the marble floor”, he writes. He could also hear people being beaten and howling with pain in adjacent rooms. Samuel had to stop several times near these rooms with the officer who kept a close watch on him. Though he considered that his own situation was not at risk because he was a Western journalist, Samuel admitted that he was afraid. But he tells in his article that he made it a point of honour to keep a defiant attitude in front of the officer.

My colleague was eventually taken to an office which seemed to be the chief’s one. Ironically describing him as an “ageing beau”, Samuel reports that he asked him questions in English, while howls coming from torture rooms could continuously be heard and covered the conversations. He writes that in the course of the questioning, the high-ranking officer had to “raise his voice, while on his face, a polite and annoyed expression seemed to mean: ‘Those howls are irritating, aren’t they?’ ” Samuel’s assessment of the circumstances were right: after a while, the “chief” returned his ID back and put an end to the questioning, adding with no irony that he was welcome.

Here is the harsh reality I became aware in Egypt: in the shade of the pyramids, enjoying human dignity and exercising fundamental rights are less than a dream. In this dictatorial regime, not only political rights are restricted; in order to remain, it must apply a law of force to all kinds of relationships, even the social ones. Should only a portion of the country be subject to nonviolent rules, involving values such as equality, freedom, dialogue or respect, the whole regime would collapse.

* As for me, I never experienced any arrest by security forces in Egypt, except once during the revolution, when I was going back home in the evening after curfew hours. I was arrested at a checkpoint and brought to an intelligence service building, but as I was a UN staff member at this time and had my pass with me, they released me… after 5 hours, still.

The manifesting Muslim in contemporary Europe; respecting or restricting freedom of religion?

I have seen great intolerance shown in support of tolerance.

~Samuel Taylor Coleridge

Introduction

While inherently diverse in its variation, the concept of religion as a whole has been aptly described as "…one of the most vital elements that go to make up the identity of believers and their conception of life" (*Kokkinakis v. Greece*). Given the historical role and significance of religion throughout European history, it is no wonder that respect for religious freedom is nowadays, albeit to varying extents, categorically enshrined in some form or other within each Council of Europe member state.Furthermore, Article 9 of the European Convention of Human Rights (ECHR)guarantees freedom of religion- not only the right to choose one's own religion but also the practice and manifestation of such.

This protection however, despite its national, European and International guarantees,has in practice given rise to many conflicts of interest between the individual and the state. This is primarily due to the non-absolute nature of freedom to manifest one's religion under Article 9 ECHR, as qualified under Article 9(2):

"Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others."

The following assessment will focus on various European national practices in limiting the right of the individual to manifest his/her religious beliefs and the European Court’s evaluation and response to such curtailments. Of specific focus will be the challenges faced by Muslim women within Europe and their right to wear the hijab in the conduct of their daily life, particularly within the education system.

A divided approach

As will be examined below, the Court has often sought to establish whether there exists a common approach throughout the member states as regards the domestic legal position of the Islamic headdress in the education environment. Such a European consensus does not currently exist, understandably due to the different ethnic demographics and prominence of religion within the state itself, as well as the varyingly politicised dimension of the issue. Take Turkey for instance. Despite its majority Muslim population, the state’s staunchly secularist nature has repeatedly trumped the right to freedom of religion, notwithstanding the constitutionally enshrined protection of the latter. The ban on the hijab within the public education system has lead to large-scale national debate on the issue, and has prompted substantial litigation at national and European level. Only within recent years and due to considerable public pressure has Turkey somewhat eased the staunch restrictions on the headscarf.

Conversely in the United Kingdom, where Islam is neither traditionally the religion of the state nor the majority religion today, the quintessentially multicultural approach has manifested without any such institutional prohibitions on the hijab generally, as well as within the sphere of education. Numerous schools have been considered to go to lengths to provide school uniforms tailored to Muslim dress code, as too have the Metropolitan Police Force.

In 2004, France introduced legislation prohibiting the wearing of the hijab and other overtly religious symbols in both primary and secondary schools, though it does not extend to universities. France has also gone one step

further as regards the full-face Islamic veil (the niqab and burka) and has banned such religious dress entirely within the public sphere. The impetus of the law stemmed from security concerns, where it was argued that a person is not readily identifiable while their faces are concealed. In addition, the political debate has focussed strongly on the compatibility of the full-face veil with concepts of equality and women's rights, leading the French parliament to condemn the religious headdress as "an affront to the nation's values of dignity and equality" (*BBC World News*, 'The Islamic veil across Europe'). In 2011, Belgium followed the French lead and became the second EU state to prohibit the burqa, while the issue has also been strongly debated in the Netherlands in recent years.

In Denmark, it is currently not prohibited to wear the Islamic veil in education institutions. However, as of 2008, it is prohibited for members of the judiciary to wear distinctly religious symbols, including the hijab, so as to maintain a religiously and politically impartial courtroom. Finally, in Germany, the constitutional court ruled in 2003 that the banning of the hijab in education institutions was permissible, providing it had legislative underpinning.

The evaluation by the European Court of Human Rights

As noted above the right to manifest one's religion is clearly susceptible to limitations by the state providing the interference is, "prescribed by law…necessary in a democratic society in the interests of public safety, for the protection of the rights and freedoms of others" (Article 9(2) ECHR). On the other hand, the Strasbourg judiciary is also quick to reiterate the vital role of freedom of religion and its importance in defining a pluralist, democratic society:

"Freedom of…religion is one of the foundations of a 'democratic society…The pluralism indissociable from a democratic society which has been dearly won over the centuries depends on it." (*Kokkinakis v. Greece*)

However, as its jurisprudence clearly attests, the Court has shown significant reluctance in rebuking domestic legislation and the rulings of

national courts where interferences with the manifestation of religion have arisen. The wide margin of appreciation (*i.e.* the room for legal variation) afforded to the member states in this regard has been justified on the basis of a lack of European consensus on, "the importance of the significance of religion in society…[and] must inevitably be left up to a point to the State concerned, as it will depend on the domestic context…"(*Leyla Şahin v. Turkey*). In this regard, the deference by the Court toward the relevant member states has been highly criticised as undermining the fundamental nature of the right to religion and instead "adopt[ing] the intellectually lazy option of running for the cover [of] the margin of appreciation."(Lewis, 'What not to wear: religious rights, the European Court and the margin of appreciation')

In *Karaduman v. Turkey*, the University of Ankara had refused to issue the applicant's university degree, pending the provision of an identification photograph that showed the applicant without any headdress. The European Commission of Human Rights (the Commission) upheld the ruling of the national courts that the requirement that students could not wear headdress of any sort in their identification photographs, including the Islamic veil, did not violate Article 9. Critical in the decision to dismiss the applicant's case, the Commission highlighted that the applicant had knowingly enrolled in a secular university, where restrictions on the manifestation of religion could be expected so as "to ensure harmonious coexistence between students of different beliefs." (*Karaduman v. Turkey,* p. 108). The European Court approved of the Turkish Constitutional Court's fears that the veil worn by some Muslim women at the university might adversely affect those who had chosen not to wear such. Finally, the Commission concluded that all other considerations aside, the provision of a photograph for identification purposes only, which was not intended for exposure to the general public, could not be seen as a manifestation of religion. Thus, it determined that no interference had in fact occurred under Article 9 ECHR.

The case of *Dahlab v. Switzerland* concerned a Muslim primary school teacher, who had been prohibited from wearing the hijab at school, as it was in contravention of the denominational neutrality required within the Swiss

education system. Section 6 of the cantonal Public Education Act of 1940 explicitly required that “the religious beliefs of pupils and parents [be] respected”. Here, the Court examined the ruling of the Federal Court in significant detail. Particular importance was attached to the domestic court’s finding that the age of the pupils in the applicant’s class (between 4 and 8 years) made them highly impressionable by the “role-model” figure of a teacher. The Court was concerned that given the children’s young age, there was a possibility that the hijab would have a proselytising effect on the children, despite the lack of any complaints by the students’ parents to that effect. Finally, in holding that the state had not exceeded its margin of appreciation, the Court appeared to agree with the Federal Court that the hijab itself was difficult to reconcile with the concepts of “tolerance, respect for others and …equality and non-discrimination”. Thus, having found that the restriction was justified in principle and was proportionate given the young age of the children, the Court held that the limitation was therefore necessary in a democratic society and dismissed the application.

With due regard to the above, the most significant case in this area is *Leyla Şahin v. Turkey*. The applicant had been in her fifth year of medical school at the University of Istanbul when the alleged violation occurred. Şahin was on several occasions refused access to various aspects of her medical education on the grounds that her hijab was in contravention of the various regulations in place. The Constitutional Court had previously ruled in 1991 that the prohibition on wearing the veil and headscarf in higher education institutions did not conflict with the Constitution given that such a restriction was necessary to preserve the secular nature of the state, as enshrined in Article 2 of the Turkish Constitution and also gender equality inherent in the Constitution’s Preamble (the introductory founding principles). Having thus found a basis in law, the Grand Chamber further held that the restriction had also pursued a legitimate aim in that it sought to preserve the secularist nature of the state and also the rights and freedoms of others of differing religious convictions. In the final element of evaluating whether the restriction was “necessary in a democratic society”, the Court cited *Dahlab,* where the hijab was seen to be a “powerful external

symbol", its potential proselytising effect and the anomalous nature of such with the concepts of tolerance and equality for women. In the final proportionality assessment, the Court highlighted the fact that the ban affected all religious attire, not merely that of Islamic origin (para. 118). Furthermore, the ban had come in light of a prolonged public debate on the issue, as well as extensive examination by the Turkish courts, and thus had supposedly taken all the relevant affected parties' rights into account (para. 120). On such a basis, the Court did not find a violation of the applicant's right to freedom of religion by virtue of the legitimate restriction provided under Article 9 (2) ECHR.

Despite a lack of controversy from within the Grand Chamber panel itself (16 votes to one), the judgment of the Court opened itself up to substantial criticism by human rights groups and religious organisations alike. The ruling of the majority also incurred pointed disapproval from the sole dissenting judge- Judge Tulkens- in her dissent. It is submitted by the author, much in the same vein as Judge Tulkens, that the Court failed to properly distinguish the situation in *Dahlab,* where one of the crucial factors in the case was the authoritative role of the applicant vis-à-vis her young students. Here however, the applicant had been 25 years old at the time of the interference and had consistently maintained that she chose to wear the veil of her own volition. In no uncertain terms, Judge Tulkens voiced her concerns about the Court's paternalistic approach in its subjective opining of the alleged fears associated within Islamic practice, where she firmly believed that such pronouncements went far beyond the Court's role. As to the majority's claim that the veil was *inter alia* "hard to reconcile with the principal of equality" (para. 111), Judge Tulkens pointed out (and it is submitted correctly) that:

"It is not the Court's role to make an appraisal of this type…[nor should it] impose its viewpoint on the applicant…"

She reiterated on several occasions that the Court had not been furnished with sufficient evidence that the hijab posed a security threat to Turkish society and that the Court hadn't sufficiently supervised the domestic

restriction.

After the judgment in *Şahin*, the prominent human rights NGO Human Rights Watch echoed the concern and disappointment of Judge Tulkens, maintaining that the Court had:

"let down thousands of women who will be prevented from studying in Turkey's universities… It missed an important opportunity in this case to stand firmly behind principles of freedom of religion, expression, and non-discrimination…" (Human Rights Watch, 'Turkey: Headscarf Ruling Denies Women Education and Career')

Since the case of *Şahin*, significant developments have occurred in Turkey regarding the prohibition on the Islamic headscarf. After an initially unsuccessful attempt in 2008, the ban on the headscarf in universities was finally lifted at the end of 2010. As recently as October 2013, the restrictions have also been eased in the workplace, allowing women employed in the public sector to wear the headscarf, for the first time since the modern Turkish state was founded. The lifting of the ban has split public opinion in Turkey; many believe that such comes as a large step in restoring freedom of religion and expression as well as enabling women to take a more active role in the workforce, while opponents warn of the eroding effect it may have on the secularist state.

***S.A.S. v. France*: Strasbourg to evaluate the French Burqa Ban**

The Grand Chamber of the Court is currently adjudicating the highly pertinent and seminal case of *S.A.S. v. France*, with the judgment due sometime this year. At the core of the complaint is the French law criminalising the full-face veil. The applicant, a devout Muslim woman who wears the burqa, complains that the French law violates her rights to: freedom from inhumane or degrading treatment (Article 3 ECHR), private life (Article 8), freedom to manifest religious beliefs (Article 9 ECHR), freedom of association and assembly (Article 11 ECHR), and prohibition from discrimination (Article 14 ECHR). Under the law, first introduced in October 2010, those found to be wearing a full-face covering in public places, except in places of worship,

can be fined by up to €150, while those found guilty of coercing others to wear the veil face a fine of up to €30,000 and a year in prison. Furthermore, anyone found to have breached the law is also required to take mandatory citizenship training to remind the convicted person of the "republican values of tolerance and respect for human dignity' (Open Society Foundations, 'S.A.S. v. France: Criminal Penalty for Wearing a Full-Face Veil in Public Spaces'). Several NGOs have filed *amicus curiae* (third party) briefs in support of the applicant, including the Open Society Justice Initiative, Liberty, Article 19 and Ghent University Human Rights Centre. The general common thread of the support is the argument that the law is disproportionate in its aims, unfairly prejudices the ability of certain Muslim women to conduct their daily life according to their religious convictions and stands to encourage the stigmatisation of Islam. Furthermore, the former Council of Europe's Commissioner for Human Rights also voiced serious concern with regard to the ban, expressing that:

"Those who have argued for a general ban on the burka and niqab have not managed to show that these garments in any way undermine democracy, public safety, order or morals. The fact that a very small number of women wear such clothing has made the proposals even less convincing. Nor has it been possible to prove that these women are victims of more gender repression than others." (Thomas Hammarberg, 'The Europe Must Not Ban The Burqa' *The Guardian*, March 2010)

Similarly, the Council of Europe's Parliamentary Assembly also issued a recommendation, which *inter alia* "call□s□ on members states not to establish a general ban on full face veiling or other religious or special clothing" (Recommendation 1927: 'Islam, Islamism and Islamophobia in Europe', June 2010). Rather, the recommendation focuses on the prevention and punishment of those who try to coerce others into wearing such clothing by: "penalising, on the one hand, all forms of coercion, oppression or violence that compel women to wear the veil or the full veil, and by creating, on the other hand, social and economic conditions enabling women to make informed choices through the promotion of genuine policies on equal opportunities for women and men which embody access to education, training, employment and housing."

(Recommendation 1927, para. 3.15)

It is the author's contention that by shifting the focus from punishing the individual believer to those who coerce female Muslims to wear the veil is the correct approach by which to tackle the concerns regarding gender empowerment and equality. A mandatory ban on the veil does not take into account the debilitating effects it will have on those women who adhere to a certain religious interpretation, whereby their personal manifestation of such is dependent on wearing the veil. Not only does it have the potential to ostracise these women from daily life should they feel they cannot go outdoors without their covering, but it can also create negative stigmatisation within society itself. Minority adherents, as is the case with the estimated 2,000 Muslim women that wear the full-face veil in France, stand to be the target of a distinctly hostile and negative stereotype fostered by a law that tells society that these women pose a threat to democracy and the French nation as a whole.

This case provides the Grand Chamber with the opportunity to move away from its earlier paternalistic approach as seen in *Şahin,* and to narrow the excessive margin of appreciation it has tended to afford to states in their limitations on religious manifestations. It is predicted that the crux of the issue to be determined by the Court will be whether the French law is "necessary in a democratic society". In this regard, it is hoped that the Court will recognise the disproportionate effects the law creates. Firstly, should it be argued that the law is a national security measure (regarding facial identification), then the Court should take note of the very small percentage of women who actually wear the full-face covering in France. The second relevant issue relates to the correlation of the full-face veil with being irreconcilable with the principles of tolerance and equality, as highlighted in *Dahlab* and *Şahin*. The focus should not be on punishing fully consenting Muslim women for adhering to an interpretation of their religion, but rather to examine whether the law adequately protects women who are being coerced into wearing the veil. In this regard, it is submitted that the relevant paragraph of the French law which criminalises the coercion of forcing the veil upon another can be considered "necessary in a democratic

society", while the automatic criminalisation of fully-consenting women is paternalistic, disproportionate and has detrimental effects on the individual. From the perspective of the applicant in *S.A.S. v. France*, namely a fully consenting Muslim woman, it is hoped that the Court will find the restriction on her right to manifest her religion to be in violation of Article 9 ECHR.

Conclusion:

Instead of liberating the women from the alleged shackles of oppression, domestic laws such as those seen in the extreme in France and Belgium, fail to entertain the notion that women may *choose* to wear these symbols. Thus by banning the veils, the laws not only encroach on women's right of autonomy and self-determination, but also render them with a *de facto* ultimatum of choosing between pursuing education, work and daily life *or* adhering to their religious convictions.

The sensitivities that are involved in cases of this sort go to the very core of the individual's identity and also define a state's efforts to strike that much sought after balance between appeasing both the religious zealots and hard-core secularists. In the middle of both extremes are the individuals who are looking to pursue their religious duties, and those individuals preferring not to be affected by those rituals by proxy. If the Court is to be convinced by national measures against so-called "fundamentalist movements", such strongly-worded allegations need to be substantiated by some sort of empirical proof before the Court should readily endorse such controversial sentiments. Similarly, the Court should be more willing to examine the individual applicant's situation more closely and whether the respondent government's arguments make practical sense in light of the facts. On this basis, it is the author's contention that the Court in *Şahin* should have put greater emphasis on the applicant's free choice and age, as was done by Judge Tulkens. At the very least, the Court should have disassociated itself from the point that she was being a so-called victim of the veil. As to the case of *S.A.S. v. France*, it is contended that the Court should seize this opportunity to recognise and protect minority religious adherents,

leaving misplaced paternalism and societal prejudice aside.

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The secular nature of the Turkey is confirmed in Articles 2, 4 and 14 with

Freedom of religion guaranteed under Article 24, with the explicit limitation that “prayer, worships and religious services” must not violate or undermine *inter alia* the secular nature of the state under Article14

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http://www.ons.gov.uk/ons/rel/census/2011-census/key-statistics-for-local-authorities-in-england-and-wales/rpt-religion.html#tab-Measuring-religion (last accessed 16 April 2014).

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Abortion in Poland and Romania: two former communist countries, completely different experiences

Poland and Romania are two countries that share a lot of similar experiences from a cultural and historical point of view, but as we will see in this article, it is their differences that makes them stand out on the European scene. Both experienced their fair share of occupations, partitions and

communist dictatorship and both had a chance of a rebirth after 1989. Despite their similarities, their trajectories were quite different and this is reflected in the way in which the two states also tackle sensitive issues such as abortion. While one country is very pro-life, the other is European champion at abortion. Nevertheless, the two countries have similar birth rates: for the year 2013, it is estimated that the birth rate for Romania was of 9.4 births/1,000 population and in Poland of 9.88 births/1,000 population. (http://www.indexmundi.com/)

The following examination will look at the two countries' overall history of abortion and try to determine possible reasons why they are situated at two opposite poles on this issue. To do this, we will look at the role of the foreign influence, political parties and religion.

Abortion in Poland

Poland is one of the most pro-life oriented countries in Europe, but few know that it hasn't always been like this. Starting in 1932, abortion was legally performed if there were medical reasons indicating that the pregnancy endangered the life of the women. Poland was also the first country to accept abortion in the case of pregnancies which were a result of a criminal act. This law was effective until WWII, when under the rule of Hitler, abortion was possible on demand in Poland. This was not the case in Germany, where it was still considered a crime. At that time, Martin Bormann, Hitler's private secretary and head of the Party chancellery said:

"The Slavs are to work for us. In so far as we do not need them, they may die. Slav fertility is not desirable."(Robert S. Wistrich, *Who's who in Nazi Germany* (New York: Routledge, 2002), p. 19). This quote appears also on pro-life websites and the topic has been brought up recently by Polish pro-life activists in a few interviews.

(https://www.academia.edu/795365/Polish_pro-life_movement_and_one_of_its_leaders)

In May 2010, Polish abortion activists shocked the public opinion by

displaying graphic billboards with aborted fetuses and the face of Hitler, in order to remind the Poles of the Nazi rule. Nevertheless, this argument is used by isolated groups who are aiming at putting the equal sign between abortion and murder or abortion and the Nazi regime. The main reason why many Poles oppose the legalization of abortion nowadays has to do with religious convictions mainly.*

At the end of WWII, things went back to how they wore before, but later it was the Communist regime that permitted abortion on demand. Some criteria still had to be met however: the mother had to prove either that she had no means for raising a child or that the future baby was the product of a crime.

In 1980, abortion became possible only with the affidavit of the physician and since there were no regulations restricting it, many abuses took place.Things dramatically changed after the fall of communism in 1989, when new debates on the theme of abortion began. The distribution of the film “the Silent Scream” along with better knowledge on the subject, and also with the teachings of Pope John Paul II, who played an important role in the independence movement made abortion be perceived as a crime (http://www.sxpolitics.org/frontlines/book/pdf/capitulo5_poland.pdf, p. 191)

The moment when everything changed was 1993, when a new law on family planning was adopted, a law that was also sought to protect the human embryo. A legal abortion is now possible only when the pregnancy endangers the life of the mother, when there are clear indications that the fetus is malformed or when the pregnancy is a result of a criminal act.

Abortion in Poland nowadays

The issue of abortion is difficult to approach because of the emotions and contradicting views involved: while the majority agree that the law needs to be changed and that abortion based on socio-economic factors should be approved, studies show that there is a difference of opinion in feelings towards the law on abortions and the abortions themselves. Some people believe that abortion is murder and this might explain lack of action for reform.

Nowadays, the debate is between those who are pro-life and those who are pro-choice and so far no agreement has been reached between the two extremes. With regard to the pro-choice standpoint, the first argument in this camp pertains to the woman's right to self-determination. The second pro-choice argument has to do with her socio-economic background and her inability to raise another/a child and is also related to avoiding illegal abortions which are riskier for her health. When abortion was legalized in Poland during the 1950's, the reason behind it was that it was needed: a large number of women were dying during underground abortions. But here lies the problem: it was not a right obtained by the women themselves, it had nothing to do with self-determination or any feminist movement, it was simply necessary for the well-being of the entire society. Moreover, the communist egalitarian approach to gender roles provided no actual benefits for the women, as everything was calculated to serve the nation and not certain individuals. The changes took place only in several spheres of the lives of the people, but traditional gender roles had stayed the same and Poland continued to be a patriarchal society. (same thing in Romania, certain rights or benefits were granted, but not because women had fought for them). The fact that women were passive in receiving these "benefits" only means that they had no influence in keeping them and this is exactly what happened later.

The debates that followed after 1990's focus on the fact that abortion is necessary especially for the impoverished women who will resort to illegal abortions because of a restrictive law that does not allow for a legal one and thus risk their own lives: "Past experiences shows that poor and helpless women will use drastic means [because of the restrictive law]…No one promoting the [anti-abortion] law mentions the easily predictable effect of the law, which will be an increase in infanticide, as was the reality before 1956". *(*http://www.sxpolitics.org/frontlines/book/pdf/capitulo5_poland.pdf, p. 191)

The problem with this argument, which is in use even nowadays, is that it reinforces the idea that women are helpless and need protection (a notion that is more beneficial to maintaining patriarchy) and that women who decide to have an abortion and who do not want to use the socio-economic background

as a reason are excluded from the equation.

On the other hand, the absence of a rights-based approach for so many years (especially during communism) makes it problematic for such notions to be adopted in present-day Poland, as they have not evolved out of a solid basis. The concept of human rights applied in such a fashion is something that emerged only in the last decade and it still requires time to sink in.

It is also considered that from a historical point of view, the identity of the Polish women became almost synonymous with the fight for independence. They become more than mothers, daughters and wives, they were heroines, especially during the time when Poland was divided between Russia, Austria and Prussia (18930-1864). While men were at war, women stayed home, kept the society and the national identity together. During this time the concept of "Mother Pole" has emerged and this legacy of women as "saints" has become a heavy burden; not fulfilling that role was and still is perceived as betraying the family institution as well as the catholic church. (http://www.sxpolitics.org/frontlines/book/pdf/capitulo5_poland.pdf, p. 191)

Abortion in Romania

Before discussing the current situation regarding abortion in Romania, this article will firstly present the historical development of abortion in this state. The victory of Bolshevism in Russia (in 1917) brought with it for the first time in the world a concrete measure of women's emancipation: the legalization of abortion on demand. This law was in effect for 16 years, until Stalin, in contradiction to the principles he agreed upon 30 years before, forbade abortion. The prime reason for this measure was to counter the low growth of the Soviet population. This law remained in place until his death (1953).

As an Eastern European country, Romania had to abide by Soviet law, a situation that changed when Khruschecev took the power in the Soviet Union. In that period the 1920s law was reinstated. The Romanian government at that time started a pro-soviet propaganda, followed afterwards by the 463 Decree, decree which brought Romania the emancipation much desired. It was this

Decree that empowered women and gave them full custody of their own bodies: they could decide if they wanted to keep the baby or not. (http://www.soviethistory.org/index.php?page=subject&SubjectID=1936abortion&Year=1936)

After this period, what followed was a decade of abortion that ended in 1966 when Ceaușescu, the president at that time, prohibited it. The reason for taking this measure was rooted in his fears about the impact and popularity of pregnancy terminations in the long run (abortions were more than 1 million a year). He was also preoccupied, just like Stalin, with the demographic phenomena and the nation's future. Thus the 770/1996 law emerged, which was made to regulate abortions. There were 6 conditions that a pregnant woman had to fulfill in order to get an abortion: if she had at least 4 children (5 starting with 1985); if she was over the age of forty; if she was suffering from a serious disease, which can be transmitted genetically; if she was suffering from a physical disability incompatible with the normal upbringing of a child; if the pregnancy was putting her life at risk; if the pregnancy is the result of rape or incest. (http://www.ceausescu.org/ceausescu_texts/overplanned_parenthood.htm)

Between the years 1966 and 1989, with few exceptions, abortions were strictly prohibited, and contraception as well. However, illegal abortions continued, despite the legal restrictions applied and the serious consequences on health. This law existed until 1989, when Ceausescu lost power and Romanian legislation was changed, with the introduction of a new law making abortion legal.

Romania is an interesting case to study. It is the only communist country where abortion was prohibited from 1967 to 1989 and which nowadays represents a tragic case. The procedure of having an abortion is a very controversial one, because there are no restrictions concerning the way in which it is performed and the women who go through it do not receive any counseling at any time during this process.

The only institution that is condemning it is the Church, because

Christianity sees abortion as one of the biggest sins that one can commit in front of God. The maximum time limit for performing an abortion in Romania is for pregnancies that do not exceed 14 weeks. The abortion is made at the women's request in a medical institution and according to the law, it can be performed later as well, if it is absolutely necessary for therapeutic reasons. A doctor who performs illegal abortions risks suspension.

In the case of this country, abortion can be considered a contraceptive measure, because Romania is the European member with the highest number of abortions per year. This may lead one to the conclusion that abortion is perceived here as a contraceptive measure and not as an extreme, emergency measure. Having the highest rate of abortion in the EU, it is a paradoxical country, which shifted from one extreme to the other.

Romania has to make changes in its legislation concerning abortion. If a woman wants to have this procedure she should benefit from the best medical care, where she is offered therapy before and after the abortion. One might blame the education system for "the normality" of abortions. If people would be more informed on this topic, than the frequency of abortions would likely diminish.

Conclusions

The two countries are perfect examples of two extreme situations. While in Poland abortion was legalized because of necessity and not because women would have necessarily fought for it, in Romania it was banned because of Ceaușescu's desire to build a larger nation. The Polish culture was and still is bound to value family traditions, the idea of community and of a unified society and that women are seen as "mothers of the nation." Moreover, the Nazi regime left deep scars that will take several more years to heal.

Romania is at the other extreme, having for 22 years a dictator with grandiose plans for the country: release it from national debt (at his death, in 1989, Romania had zero national debt), increase the natality and have more citizens who "fight" for the communist cause. In order to achieve these goals, he created a nation of impoverished people, who lived in fear of the

system and in fear of each other. The Romanian mothers of the nation were compensated the more children they had. The title of “Heroic Mother” was awarded to the women who had at least ten children and it was accompanied by a monthly subvention of 500 Lei. This honorific distinction was not enough motivation for the impoverished families to have more children and illegal abortion were at its peek during this time. Therefore, when communism fell and all the ideals connected to it were rejected, the notion of “Heroic Mother” had no more value as well.

Although the socio-economic background is fairly similar in the two countries, their extreme approaches to abortion might be a result of two factors. First of all, the way in which the countries put an end to their communist regimes was very different: in Romania, the end of 1989 brought a bloody revolution, followed by Ceaușescu’s execution. The kangaroo trial that the President faced as well as his shooting were broadcasted on national television. Afterwards, Romania had no viable alternative for the communist party, while in Poland, the anti-communist Solidarity Party won the free Polish elections and communism was overthrown in a democratic way. While Romania was in a period of confusion and sunk even deeper in corruption, Poland was finding its way out of the dark times and adopted good, healthy reforms right from the start.

Second of all, while the Orthodox Church was fairly obedient to the communist state, the Catholic Church was a strong advocate for anti-corruption and anti-communism in Poland. Looking at how different cultures deal with the issue of abortion, one obvious pattern is that the strong Catholic Church has a clear say in how the legislation is shaped not only Poland, but all the countries in which it is the national religion.

In Romania, after the fall of the communism, the Orthodox Church – dwarfed by Ceausescu’s regime – started to get strength again, but not enough to impose its views into politics. On the other hand, Pope John Paul II was not only an international figure, but was and still is one of the most beloved people of Poland. He had a great role in the collapse of Communism and therefore, the Catholic religion in itself was regarded as the savior of the nation.

Furthermore, since abortion is considered a sin and feminism an attempt to destabilize family life, women's voices were not heard then and have a hard time being heard nowadays as well.

The two countries have yet to find balance and although they have opposite problems with abortion, it is clear that sexual education needs to be a priority for both of them. Catholic Poland treats sex as a taboo and illegal abortions represent the unseen struggle of Polish women. In Romania on the other hand, the very high number of abortions performed each year shows that people, women and men, are not preoccupied with safe contraception, which also means a lack of concern in regard to the sexually transmitted diseases. Both countries are in a critical time, when things have to change. Only time will tell in what direction things will go and how long it will take to get there.

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Lesbian, Gay, Bisexual, and Transgender (LGBT) rights in Turkey

This paper will examine and address a fundamental human rights issue: the discrimination and violence lesbian, gay, bisexual and transsexuals (LGBT) citizens face in Turkey. The central aim of this paper is to respond to two basic questions:

Why does the LGBT community face discrimination in Turkish society?

How can we decrease discrimination and harassment towards LGBT people in Turkey?

That being said, even though LGBT people are becoming stronger and more visible in Turkey, they are still facing violence, attacks, abuse and discrimination on a daily basis. Honor crimes against LGBT are believed to be a way of keeping the 'honor' of the family intact. Kaos GL, a Turkish LGBT rights organization, tracked 16 "hate crime" murders of gay men and transsexual people in Turkey in 2010 alone. (www.lgbtinewsturkey.com/2013/09/11/2012-report-of-human-rights-violations-based-on-sexual-orientation-and-gender-identity/)

Homofin, is a herbal treatment, which claims to influence hormones. The manufacturer states: 'It is now up to you to be or not to be a homosexual". Homofin's site even encourages mothers, who suspect their sons are gay, to buy these capsules and secretly dissolve the drug in their food. The government has yet to take any legal action to get this unethical, unscientific drug off the market.(http://www.mambaonline.com/2014/01/03/gay-cure-pills-condemned/)

In addition, police officers regularly arrest LGBT people on the accusation of prostitution. Sexual orientation or gender identity is often used as a basis for criminal penalties, in particular executions, arrests or detention. Critics say these actions are a way of putting pressure on the LGBT

community. Most LGBT people that have experienced such incidents do not report this misconduct; they know that those responsible will never be punished.

To this day, there are many obstacles LGBT activists face on social networking sites and the internet in general. One example is that websites of LGBT associations are regularly hacked by religious groups.

While the government plays dumb, the fundamental rights of LGBT people are being violated, especially their right to private life. Homosexuals are increasingly targeted, also in hate speeches made by government officials. In 2010, Selma Aliye Kavaf, the Minister for Women and Family, classified homosexuality as a biological disorder and a disease which needed to be cured. Further, in response to the question 'when Turkey is going to have openly gay ministers' the mayor of Ankara, Ibrahim Melih Gokcek stated ' if god willing (insallah) in our country there are no gay and will never be' when he was asked 'when Turkey is going to have openly gay ministers'. Even more so, the fact that Prime minister Erdogan has never mentioned homosexuality or LGBT people during his service is a clear sign that the government should be blamed for the violence and harassment against LGBT people; by being passive, the government clearly shows their toleration of homophobic and transphobic attitudes.

Moving forward, The Universal Declaration which was adopted by the UN General Assembly on December 10th 1948 passed with a vote of 48 in favor (Turkey being one of them), zero against and eight abstentions. Article 1 of the Universal Declaration states that 'all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood'. However, the rights of LGBT people are ignored and not mentioned in the Turkish constitution's prohibition of discrimination or the social and civil rights. (http://www.un.org/en/documents/udhr/)

Meanwhile, LGBT groups are pushing their agenda forward in order to include protection against gender/sexual orientation discrimination in the Turkish

Constitution and have some support from outside the LGBT community. The LGBT activists campaign for equality before law.

On the 30th of June 2013, the gay pride parade attracted almost 100.000 people. This was seen as a positive development by LGBT activists. (http://www.nytimes.com/2013/07/01/world/europe/protests-squelched-gay-rights-march-brings-many-in-turkey-back-to-the-streets.html?_r=2&)

On the other hand, Gezi resistance which started on 27th May 2013, was an anti-government struggle against injustice and cruel and inhuman intervention of the Turkish police. The protesters demanded freedom of the press and freedom of expression, the removal of all barriers between the citizens and their right to education and health service, as well as protesting against discrimination based on sexual orientation and gender identity.. During the Gezi struggle, LGBT people got a chance to show that they are normal and harmless human beings, and do not warrant that people are afraid of them. Gezi remains an event that has sent a clear message to everyone : 'the struggle of the people in Gezi Park was a battle for democracy and rights for all'.(http://roarmag.org/2014/01/gezi-ottoman-turkish-nationalism/)

A momentous decision was taken when People's Democratic Party (HDP) freshly nominated five LGBT activists. Furthermore, the Republican People's Party member and also LGBT activist Öykü Evren Sözen has announced her candidacy once again from Bursa Osmangazi district city. Another big step was made when Can Cavusoglu, an openly gay independent candidate, publicly announced that he is running to become a mayor in Giresun's district of Bulancak in the March 2014 local election. He declares himself gay, activist, writer, thinker, painter humanist and women's rights activist. (http://www.hurriyetdailynews.com/hdp-pledges-diversity-with-its-party-assembly.aspx?pageID=238&nid=57005)

Being Gay, bisexual or transsexual is seen as an "illness" by religious groups. Hate crime is a daily reality throughout Turkey. Islam being the dominant religion in Turkey is one of the reasons why there are anti-gay actions. Religious clerics state that homosexuality is a test. If you are not

able to stand the temptation, you will go to hell. If you resist, you will be pardoned and go to heaven. In Turkey, there are many religious people who believe that Islam's position regarding LGBT people would be to apply the death penalty (http://www.gmanetwork.com/news/story/321419/pinoyabroad/worldfeatures/gay-muslims-in-turkey-torn-between-religion-and-sexuality)

To conclude, the government in Turkey has to introduce a new constitution containing greater human rights protection. An anti-discrimination law to protect LGBT is a necessity. In this way, the discrimination in society will not only decrease but will also reduce the long-established judicial practice of giving penalty reductions based on unjust provocation in hate-motivated killing of LGBT people. Currently, the perpetrators continue to be rewarded by the judiciary. LGBT people will continue to be targets if the LGBT are not seen to be equal before the law. The demands of LGBT people for equality and protection under the law, full justice and freedom for LGBT people should be accomplished. This year was utterly a difficult one, marked by several hardships the LGBT had to endure, such as killing attempts, ill treatment, rape and cyber attacks. Thus, I reckon a proper end of my article would be a very inspiring line from Nazim Hikmet's invitation poem: "To live like a tree single and at liberty and brotherly like the trees of a forest.

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Expulsion of gypsies

1. The status of Romanian gypsies according to EU law

After analysing Romania's Accession Treaty to the European Union and all the restrictions concerning the free movement of Romanian workers, I will now discuss the controversial issue of Romanian gypsies. I will analyse the status of Romanian gypsies according to EU law. One might argue that the negative image of Romanians in the Member States and the reason why they at times are discriminated is partly due to the Romanian gypsies. One of the

reasons why some EU countries closed their job market to Romanian workers until 2014 might be linked to the fact that among the Romanians benefiting from all the freedoms in the EU treaty, there are the Romanian gypsies. I will first briefly present some facts about the Roma community, before analysing the issue further.

The Roma are one of the oldest surviving minorities in Europe. Linguists demonstrated the fact that the Roma descend from North Indian castes which left to migrate across Europe between the years 500 and AD 1000. The name Gypsy is a name derived from the term –Egyptian. When Gypsies began to arrive in England from Egypt they were identified as being different by the color of their skin and dress so they were attributed to the Egyptean origin. After their settlement in Europe their number started to increase and recent estimates place the Romany population of Europe at around ten million people.

It is hard to speak about the Roma community without talking about racism. The degree of discrimination and hostility they face from the rest of the society is a well known fact. This could be considered the biggest factor in their identification, that of a transnational minority. The degree of discrimination that they are confronted with does not exist only in a region of Europe, but across Europe: "*The problem of anti-Roma prejudice and discrimination while more acutely felt in Central and Eastern Europe is by no means confined to this region. Indeed, recent inflammatory reports in the British press demonstrate the deep seated hostility towards Gypsies, particularly to those continue to adopt a nomadic way of life in the face of great adversity*"

The Persecution of Roma across Europe is well documented. Alongside Jews, gays and the disabled, they were targeted by the Nazis for extermination. But while European views on Judaism, homosexuality and disability have come on in leaps and bounds in the past six decades, the attitude towards the Roma still drips with prejudice

Josephine Verspaget, a Rapporteur for the Council of Europe, highlighted the position of disadvantage common to most Roma: *"The position of many groups of*

Gypsies can be compared to the situation in the third world: little education; bad housing; bad hygienic situation; high birth rate; high infarct mortality; no knowledge or means to improve the situation; low life expectancy. If nothing is done, the situation for most gypsies will only worsen in the next generation". (O`Nions, Helen, Minority rights, Protection in International Law, ed Ashgate, 2008.)

Analysing criminality in the Roma community is a very sensitive topic. As previously mentioned, gypsies represent the most discriminated minority group in Europe. One of the explanations given for this hatred towards them is the „*criminal mind*" they have. People have the impression that gypsies cannot adapt properly in a society this being the reason why they will always try to abuse the system.

Yet, how can people talk about gypsy criminality when there are no numbers, no statistics made about that? As previously mentioned it is hard to track them, because most of them will not admit their culture, they will not reveal it because they are afraid of discrimination. In Europe there is no body of control, that has numbers regarding gypsies that are beggars, or those who have been imprisoned, so it is actually very hard to say how many of them are actual thieves and how many of them are just victims of un unfair system.

A model that can be set as an example is the American model in my opinion, meaning the BJS (Bureau of Justice Statistics) which is an interesting system, because it collects, analyses, reports statistical data on activities in the nation`s criminal justice system.

The Bureau of Justice Statistics maintains data on the race and ethnicity of the victims of crime obtained through a national household survey; the race of offenders as reported by victims; and the race of inmates in local jails, state prisons, and federal prisons and Courts. Data are also collected on the race of law enforcement officers through a survey of police agencies. This body of information can be used in policymaking to ensure fairness in justice administration and to develop programs that address the issues, problems or services peculiar to specific

groups.(http://www.bjs.gov/index.cfm?ty=tp&tid=3)

2. The expulsion of gypsies from European countries

As I previously mentioned another focus in my paper is the status of gypsies as EU citizens, their rights and obligations in the European Union. I will try to answer several questions, such as: Are they still the most discriminated group of Europe? How can their situation improve? I will try to answer these questions by presenting some case law, analysing their experiences in France, Italy and the United Kingdom.

2.1. Facts concerning the expulsion of Gypsies from France, Italy and the United Kingdom

In this subchapter I will present the facts that revolve around the expulsion of Gypsies from countries such as France, Italy and the United Kingdom.

In the situation of France, this case got the international media`s attention. Using the police, the French government in 2011 broke up the gypsy camps around the country, including areas in Lille, Lyon, Paris, Marseilles and others. As a cosequence over 200 gypsies have been deported to Romania in a move, motivated by the Government by health, sanitation and security. The people from the Roma community that actually accepted the repatriation received 300 euros per adult and 150 per child, this also being a controversial measure because a lot of people believed that they would use the money to return to France.
(http://rt.com/news/france-gypsies-camps-dismantle-406/)

In the case of Italy, in main cities such as Milan, Rome and Naples the Italian authorities have dismantled Roma camps. As an example, in Milan where local authorities have been evacuating Gypsies from a couple of years, because of upcoming elections, their focus has been now redirected towards the exclusion of Gypsies from their community, which represents a popular action through the community.
(http://www.csmonitor.com/World/Europe/2010/1013/In-Italy-local-politics-appears-to-drive-latest-round-of-Roma-Gypsy-expulsions)

In the case of UK, the government has also been criticised for expelling hundreds of gypsies ahead of the opening of the London 2012 Olympics. The National Gypsy Council says yet again they are discriminated, as they were in France under ex-president, Nicolas Sarkozy. The gypsies, mostly from Romania, used to live in East London, near the site of the Games. Right before the opening of London Games, local police invited Romanian police to deport them back to their home country. The main Gypsy population is formed of immigrants who come mostly from Eastern European countries like Romania, usually illegally. Most of the time they are seen begging on the streets of British cities, reason for which a number of British see them as thieves and beggars who represent a threat to social order. (http://english.cntv.cn/program/newshour/20120812/103259.shtml)

2.2. The reasons invoked by the parties for the expulsion of the Roma community

In this subchapter I will present the arguments invoked by the parties to the conflict about the expulsion of gypsies. Regarding the evacuation of gypsies the opinions are of course divided in two, one group that is pro this measure and considers it necessary, whilst there is the other group that considers that this measure is illegal. After presenting the opinions expressed by France, Italy and the United Kingdom I will also express my opinion on the topic.

For France this is not the first time something like this is happening because the first action of this kind started in the period while Nicolas Sarkozy was president, in 2010, when gypsies from 88 camps were expelled in a matter of weeks. At that time Sarkozy`s politics were highly criticised and seen as an effort on his behalf to bring in far-right voters in his bid for tough re-election campaign.

One of the most important figures responsible for this measure is Manuel Valls, France`s Interior Minister. He declared that these evacuations were necessary due to the possibility of health risks and not only that but also

due to the fact that the neighbours of the camps were often complaining about noise, an antisocial behaviour and serious crimes that were coming out from the settlements. Manuel Valls also assured that everything would be done for vulnerable people, mostly for children and pregnant women in order for them to be re-housed as soon as possible underlining the fact that this is a "*decent and humane*" policy of removing people from deplorable conditions. (http://www.bbc.co.uk/news/world-europe-11020429)

The French government also declared that they only have to give residency permits if they want to settle long-term and work because of the transitory measures in the EU accession agreement, citizens from these countries are not actually allowed to work legally in France until December 31, 2013. "*The repatriations do not take the form, in any way, of forced, collective expulsions,*" said Interior Minister Valls. The government also added that according to EU law gypsies need to have the means to support themselves if they intend to stay for more than three months. The government said travelers camps were sources of *„illegal trafficking*" and *„exploitation of children for begging, of prostitution and crime".*

France has insisted that the actions „ *fully conform with European rules and do not in any way affect the freedom of movement for EU citizens, as defined by treaties".*

Foreign ministry spokesman Bernard Valero told AFP that an EU directive „ expressly allows for restrictions on the right to move freely for reasons of public order, public security and public health".

These have been the arguments brought by the people in charge of this measure. Now I will present some of the most important arguments brought against this action. The Romanian president declared about this action: „*We understand the position of the French government. At the same time, we support unconditionally the right of every Romanian citizen to travel without restrictions within the EU".*
(http://rt.com/news/france-gypsies-camps-dismantle-406/)

The Roma groups accused Sarkozy of „*ethnic cleaning*", underlining the fact

that gypsies come either from Romania or Bulgaria, countries that are both in the EU since 2007, thus they were benefiting from the free movement principle.

The operation has also been condemned by human rights groups, who say it is deliberately stigmatising a generally law-abiding section of society to win support among right-wing voters.

When this action was taken by the police forces members of the UN's Committee on the Elimination of Racial Discrimination criticised the tone of political discourse in France on race issues, saying racism and xenophobia were undergoing a „ *significant resurgence*" in this country. Mr Sarkozy's political opponents have accused him of using the Roma issue to shift public attention away from the corruption in France to the Roma issue.

The row erupted after EU Justice Commissioner Viviane Reding branded the French policy a „*disgrace*" and called for legal action. She said she was „ *appalled*" by the expulsion of thousands of Roma, adding: 'T*his is a situation I had thought Europe would not have to witness again after the Second World War".*
(http://www.theguardian.com/world/2010/sep/07/barroso-french-anti-gypsy-campaign*)*Viviane Reding later said she regretted interpretations of her statement. Reding promised to haul France before the European Court and force it to change its policy. Still France has not only continued the deportation of the Roma, but also extended it. Admittedly its Interior Ministry has stopped circulating documents that mention the Roma by name, now he is using the phrase „ *not exercising treaty rights*" should be deported. The phrase *"not exercising treaty rights"* means *"those who are not in work, or looking for work*".

After analysing this situation the European Union also took measures to remediate the problem. In a resolution that was passed by 337 votes to 245, the Members of the European Parliament (MEPs) told Paris to „ *immediately suspend all expulsions of Roma*", saying they „ *amounted to discrimination".* Although their demands are not legally binding, the MEPs said that "*mass*

expulsions are prohibited ” under E.U. law, *„since they amount to discrimination on the basis of race and ethnicity”.* *(*http://www.theguardian.com/world/2010/sep/09/french-anti-gypsy-european-parliament)

German MEP Martin Schulz, head of the Parliament’s powerful socialist group, lamented, *”The country that gave us liberté, égalité and fraternité has taken a different, regrettable path today*” and President José Manuel Barroso’s described this measure as:*”reawaken the ghosts of Europe’s past”.* *(http://www.theguardian.com/world/2010/sep/13/sarkozy-roma-expulsion-human-rights)*

The Commission had questioned whether France was actually meeting the E.U.’s legal requirements with its deportations whether case-by-case assessments of the deportees were being made and decided that measures singling out a specific ethnic group are illegal.

There is a little that European institutions can do against such a determined government because the EU has no authority to actually interfere with the internal affairs of national governments, so far as they do not breach community rights. This is the reason for which EU actions are many times very soft. Because of the situation of the Roma community the measure that Europe took was to create an awareness campaign. This program that received millions of euros in order to help gypsies overcome the problems that they are confronted with, such as discrimination, poverty, bad housing and poor health.

But campaigns against the Roma have spread across Europe. The latest French offensive recalls Italy’s „*security package*” from 2008, which actually led to the dismantling of Roma camps and the deportation of migrants who could not prove that they actually had regular employment. In the past two years countries such as Italy and Great Britain, have also taken actions against the Roma or stated an intention to do that.

As previously mentioned Italy had the same politics as France concerning the Gypsies living in their country. Italy Roberto Malini, a representative from

Everyone, an nongovernmental organization that defends minorities declares: "*The strategy is clear and simple: Rather than forcing someone on the airplane, authorities keep demolishing gypsy camps so that eventually Roma people have no place to go and leave the country" (http://www.csmonitor.com/World/Europe/2010/1013/In-Italy-local-politics-appears-to-drive-latest-round-of-Roma-Gypsy-expulsions)Besides Milan, camps have also been evacuated in cities such as Rome, Naples,* Venice. Maurizio Paganini, leader of the Opera Nomadi gypsy organization declared on this matter: "*In a sense, Italy has anticipated the French trend in cracking down on Roma".*

Riccardo De Corato declared to Asca News Agency that: "*We have kicked out 150 squatters in 24 hours and have evacuated 355 people since 2007".* The campaign under way here is a part of what observers are calling the most intense wave of anti-immigration sentiment to wash over Western Europe in years. (http://news.yahoo.com/italy-local-politics-appears-drive-latest-round-roma.html)

The United Kingdom has taken the same measure as France and Italy, to expel gypsies from the country.

3. Is the expulsion of gypsies in breach of the EU legislation?

First of all, looking at the example of France in my opinion the action taken by France cannot be justified by public order and safety. The gypsies were indeed living in bad conditions, no hygiene, outrageous behaviour and having often a criminal behaviour. But in order to invoke the principle enriched in the Residence Directive, the principle of public order and safety some conditions have to be met, otherwise the principle is not applicable. If those conditions are met expulsion can only be made following the European legislation.

According to the Residence Directive "Member States may restrict the freedom of movement and residence of Union citizens and their family members,

irrespective of nationality, on grounds of public policy, public security or public health. These grounds shall not be invoked to serve economic ends". As a consequence, Member States can restrict the free movement of residence of Union citizens on the grounds above, if this does not follow an economic end. So far the measure taken by France is legal. (http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2004L0038:20040430:EN:PDF)

A relevant phrase from the Residence Directive mentions also the following: "*Measures taken on grounds of public policy or public security shall comply with the principle of proportionality and shall be based exclusively on the personal conduct of the individual concerned.*

(http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2004L0038:20040430:EN:PDF)

Previous criminal convictions shall not in themselves constitute grounds for taking such measures". This article demonstrates the fact that France has committed an abuse. First of all if the measure is taken it must respect the proportionality principle. In my opinion the measure taken by the French Government did not respect the proportionality principle. Second of all, the Directive mentions in the article the fact that evacuation is possible in some conditions, only if it is based on *"personal conduct".* In this case there is no personal conduct, but a general conduct, because the same measure of expulsion was taken for all the Gypsies living in those camps, so it was a general conduct. Not only this, but the measure is in breach of EU law, because the Residence Directive specifically forbids collective expulsions and this is exactly what happened in this case. So I consider that the action taken by the French government is in breach of EU law. There were without any doubt huge problems with the Roma community leaving there and the French position is understandable until a certain moment, but even so, the decision is still in contradiction with the EU legislation. The French Government should have proceeded in a different way in my opinion. If they wanted to protect the public order in the country, they should have investigated each and every person living in those camps.

The gypsies living there benefit from European protection, depending on their status. Some of them were living there for less than 3 months, which means that, as EU citizens they benefit from the free movement of people principle. Any EU citizen can travel around and stay in a country for 3 months without having to justify his stay. This is the first category of gypsies that were staying in those camps. The second category of gypsies was represented by workers. Among those people there were surely also gypsies that were workers in France. Those people are entitled to the protection offered by European Union to workers. The third category is probably represented by the jobseekers. If you qualify as a jobseeker, then you are entitled to the same rights as workers.

The last category was formed by gypsies, who were either beggars or thieves, this is the category which worried the French Government and the group that actually caused the French Government to expel them.

The measure to expel the gypsies from the country does not only represent a breach of EU legislation but also a breach of human rights, because the Government targeted from the first moment a specific group, which is anyway the most discriminated group in Europe. This action thus represents a racist action meant to get rid of the Roma community from the country.

In my opinion, this was a political action which does not resolve immigration problems. Proper knowledge of the existing problem is indeed needed before action is taken and impulsive action such the expulsion might be an easy way to get votes, but not to resolve problems in the long run

Second of all, moving on to the Italian case, I consider the legal situation as being identical to the French one, the only difference between the two countries is the quantity of Roma that they expelled from their country. Because it was at a national level in France there were more gypsies evacuated than in Italy, but the action was the same, racist towards a specific group, measure than is not covered by the public order and public safety principle.

Third of all, analysing the situation in the United Kingdom, I consider the

action taken by the UK to be in breach of EU law, because the free movement principle can be restricted only in specific cases, if the action is justified by public order, public safety and health. If none of these exemptions exist then the free movement of principle must be respected, because it represents one of the foundations of the European Union. The action taken against gypsies in UK was taken only to hide the real situation in front of all the personalities and tourists that were coming to London to see the Olympics. The English authorities did not want to paint a grim picture and show that there are also people that are in leaving in this way in those conditions in their country.

Concluding on this issue, I do consider that a state has the positive obligation to look after its citizens but also to try to integrate immigrants into its country. In a case like this, were they might represent a menace to public safety and public order the government`s action can be justified, if taken at the right time and if not targeting a specific ethnic group, but targeting dangerous people, that represent a menace to their society.

After presenting the politics of these countries towards gypsies in the following part of the paper I will briefly also present my conclusions and the migration problem for Romanians.

4. Conclusion

Regarding the expulsion of gypsies from France, Italy, UK, I argued that this did not only breached EU law but also Human Rights. Expulsion can be accepted under the Residence Directive, if protecting public order but that was not demonstrated by the governments of any of these countries. In addition, mass expulsions are specifically prohibited and this is exactly what happened to the Romanian gypsies living in the countries mentioned above. But a big problem still remains: gypsies, still represent the most discriminated group of Europe. How can this problem be solved?

The issue of gypsies might explain why Romania was refused accession the Schengen space and the restrictions on the free movement of Romanian workers.

These people are normally identified according to the way they are dressed, they are mostly seen by other Europeans as beggars, thieves, etc. These are the reasons for which they were expelled from the countries mentioned above. In my opinion this behaviour should change. The mentality could change through further discussion between the countries hosting large minorities of Roma people; need for research; more discussion among Romani leaders about the way in which they could interfere integrate/protect Roma people rights ; more objective media coverage because they are often depicted badly in the media, which is not revealing all the time both sides of the story and last but not least, some sort of police training and partnership with the Roma.

It is essential to gather more information about the patterns of migration of Romanians and gypsies because this it is one of the reasons why Romania was denied the access to the Schengen space and why some countries imposed severe restrictions in their countries concerning their job market.

Today the European Commission, E.U. member countries and the Roma themselves all agree that Spain has become the model for integrating Gypsies. Now the governments of Bulgaria, Slovakia, Hungary, the Czech Republic and even Romania where many Roma come from are looking to Spain for ideas to apply themselves.

Of the 10-12 million Roma living in Europe, Spain has the second biggest community, estimated at 970,000, or about 2% of the total population. And the country spends almost €36 million annually bringing them into the fold. In Spain, only 5% of gypsies live in makeshift camps and about half of Roma have their own houses. Just about all Gypsies in Spain have access to health care and while no recent figures exist, at least 75% are believed to have some sort of steady income. (http://www.nytimes.com/2010/12/06/world/europe/06gypsy.html?pagewanted=all&_r=0)

The spokesperson of the Amnesty International in Denmark, Ole Hoff-Lund, said in the newspaper Yesterday's Information that: *"Roma have no peace anywhere in Europe. They are in the most vulnerable population group, which is*

persecuted and discriminated against in the EU. They have no access to jobs, housing, education or health. This type of discrimination, Roma now encounter also encounter in Denmark and even from the highest place. Even Minister of Justice has pitched in".
(http://content.time.com/time/world/article/0,8599,2019316,00.html)

Another debate that occurred was related to the costs of this migration waves. Still the Romanians and Bulgarians that wanted to leave the country and work somewhere else did that already. More than 1 million Romanians currently work in Italy, whereas in Spain there are 900 000. These countries have been chosen by Romanians because of the linguistic similarities. (http://www.nytimes.com/2010/12/06/world/europe/06gypsy.html?pagewanted=all&_r=0)

The free movement of labour is a fundamental right which is enjoyed by all EU citizens. It represents a core principle that is the cornerstone of a prosperous, peaceful and integrated Europe. As a consequence developing a nationalistic attitude towards the labour market across the continent is a dangerous attitude. Eroding the foundation for the concept of labour mobility within Europe would set the EU further back in actually meeting the need to grow and ensure the economy on the long run and also it`s prosperity.

Besides the substantial economic benefit, free movement also paves the road towards a common European identity. Ultimately, just trading goods across borders and integrating any fiscal policies will not be able to complete the required foundation for closer political union.

European citizenship can be understood as a fundamental right given to European citizens to move, work and build their lives in other Member States which also includes establishing families and nurturing friendships, which fosters a true sense of common European citizenship. In the situation where Europeans start closing down their borders to their fellow Europeans today there will remain not that much of "European" to defend.

Even with the current situation Europeans have historically exercised their right to move and reside freely across the EU less than predicted because of

all the linguistic and cultural barriers that kept many Europeans tied to their own markets. As a consequence, many governments are fighting with high rates of unemployment and angry electorates, which are scared about migration on their country. This reaction of people is not actually supported by facts because empirical evidence shows that this fear, of foreign workers might crowd out the domestic ones is incorrect. It rarely happens that migrant workers displace the domestic labour force. Instead they do contribute substantially to national economies, through the labour they supply, through the taxes that they pay and also through the services that they consume.

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