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Bilateral Labour Migration Agreements between the Philippines and Europe

What Can We Learn from the Middle East?

RÉKA ANDRÁSY,[1] VALÉRIA ESZTER HORVÁTH[2]

Labour migration is a complex global phenomenon, connecting the aspirations of individuals seeking better work opportunities with the regulatory frameworks established by international and national instruments. In this framework, bilateral labour migration arrangements emerge between states as governing instruments of cross-border employment. That is why this paper aims to examine the bilateral labour migration arrangements of the Philippines, particularly with countries in the Middle East and Europe, and assess their compliance with international human rights and worker's rights, with a focus on the International Labour Organization's (ILO) Conventions. By doing so, the article seeks to contribute to the understanding of multilateral legal frameworks governing labour migration and to identify the role of bilateral labour arrangements as the most effective means of governance from the perspective of states involved. Selecting the Philippines as the centre of our analysis aligns with global labour migration trends, as the Philippines is one of the largest exporters of labour to the Middle East and Western Europe. Additionally, a recent trend of emerging labour markets in Eastern and Central Europe also vindicates prognostic research in this topic.

Keywords: labour migration, bilateral labour arrangements, migrant workers

Introduction

Labour emigration from the Philippines started as a dynamic response to global events and domestic policies and was initially triggered by changes in immigration laws in Australia, Canada, New Zealand, and the United States in the 1960s. The first wave of migrant workers involved professionals and skilled workers seeking permanent migration, while the upcoming waves, as an effect of the oil boom in the Gulf and economic challenges in the Philippines, led to temporary migration, giving rise to the Overseas Filipino Worker (OFW) programme in

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the 1970s. The evolution of OFW deployment reflects global economic shifts. In the 1970s, mainly construction and low-semi-skilled workers migrated to the Middle East as an answer to the increasing construction investments in the region. In the 1980s, the opportunities increased for female participation as the need grew for domestic household and blue-collar employment in East Asia. In recent decades, the growth of the 'knowledge economy' created opportunities for higher-skilled workers (Ang–Tiongson 2023: 2–4). In 2015 Filipino migrants gave 5.3% of the total population of the Philippines with an estimated number of 5.3 million from which 2.377 million were overseas contract workers. The lack of employment opportunities in the Philippines is often mentioned as the main reason by migrants to look for work abroad. The Filipino youth facing limited employment opportunities tend to turn to labour migration as an alternative. The main motivations behind these are the remittances to send home for the family and lack of job opportunities domestically. However, the options for high-skilled labour abroad are still significantly less than the demand for low-skilled occupations. Therefore, many of the university-educated Filipinos are likely to face challenges in finding suitable employment overseas and end up securing jobs in the low-skilled sectors.

The Philippines actively participates in international labour migration instruments. The country has been a member of the International Labour Organization since 1948 and has ratified nine of the ten fundamental Conventions, except the Occupational Safety and Health Convention (No. 155). It has also ratified the ILO conventions related to migrant workers: the Migration for Employment Convention (No. 97) and the Migrant Workers (Supplementary Provisions) Convention (No. 143). Additionally, the Philippines remains one of the most active countries in seeking bilateral labour agreements to-date, given the high number of Overseas Filipino Workers and the continuing concerns regarding their rights. The Philippine government has a highly institutionalised system to ensure the safety and welfare of their overseas workers, often utilising bilateral labour agreements (BLAs) to address these concerns. Regionally, 44% of the Philippines' bilateral labour migration agreements (BLMAs) are concluded with Middle Eastern and North African countries, 26% in the Asia-Pacific region, 16% with North America and Trust Territories, while 14% in Europe. Legally binding Bilateral Labour Migration Agreements (10) have only been signed recently, between 2013 and 2018, while most of the non-binding Memoranda of Understanding (MoUs) were signed with states in the Asia-Pacific and the Middle East, and Northern Africa regions.

In this paper we will introduce multilateral and bilateral migration governance instruments to establish the legal context surrounding Filipino migrant workers. We will then analyse a selected group of BLMAs and the extent to which these arrangements adhere to ILO standards, whether they adequately govern labour migration between the two states in question and protect the rights and well-being of Filipino migrant workers, and whether there are any patterns and trends in the commonalities and differences of the examined bilateral labour arrangements, especially regarding the inclusion or omission of the aforementioned provisions.

Labour migration governance

Despite common misconception, international labour migration is not a new phenomenon. In fact, in various forms, international labour migration has been significant for centuries. According to Kozak and Shengelia (2014), international labour migration has undergone significant historical transformations shaped by economic, political and social factors in four stages. The first stage, from the end of the 18th century to the middle of the 19th century, was marked by the formation of the world labour market. This period coincided with the industrial revolution in Europe, leading to a relative overpopulation and mass emigration from Europe to North America, Australia and New Zealand, and the emergence of new countries reshaped the global economy. The second stage, from the 1880s to the First World War, was dominated by production and capital concentration in advanced countries such as the United States of America and Great Britain. The increasing production created a demand for additional labour, driving immigration from less developed countries like India or China, and in the early 20th century, there was a surge in unskilled labour. The third stage, occurring between the two World Wars, was characterised by the reduction in international labour migration due to the consequences of the 1929–1933 world economic crisis, unemployment increased in developed countries, creating the need for restrictive migration policy, and remigration from the USA became a notable phenomenon during this period. The fourth – and current – stage, from the post-World War II to the present, has been characterised by scientific and technological revolution, monopolisation of international and capital markets, the internationalisation and integration processes, while intercontinental migration has soared, domestic and interstate regulation of labour migration has been gradually strengthening in response to these complex global shifts (Kozak–Shengelia 2014: 94–95).

The need to govern international labour migration on an interstate level is rooted in the complex motivation and driver of labour migration. To explain this, we will briefly revert to classic and emerging migration theories and concepts in the following section.

According to the historical-structural theories, persons on the move are constrained by structural (economic) forces, which means they actually do not have a choice. Within this group of theories, the Dependency Theory, originating in the 1960s, explain these forces as a result of the exploitation of less developed countries whose resources were drained off by colonial forces. The world-systems theory, originating in the 1970s, also highlights the power imbalances between developed and less developed states and on the process of traditional economies incorporating into global capitalist economies. While globalisation theories, originating in the 1990s, emphasise that globalisation is the leading cause of international migration strongly backed by improving infrastructure and communication technologies, overall historical-structural theories view persons on the move as being entirely dependent on their economic and environmental surroundings and who do not have a conscious decision-making ability in this regard. In contrast, functional theories – the other subgroup of classical migration theories – view human

mobility as an output of a cost-benefit analysis from the migrant's and their family's perspective. Lee's push–pull theory consist of push factors such as unemployment or low income in the country of origin and pull factors such as higher salaries and more beneficial labour market in the country of destination (Lee 1966). Subsequently, in the middle of the 20th century, neoclassical migration theories extended economic principles into various social sciences and view migration as an individual decision driven by income maximisation, combining micro-level motivations with macro-level determinants such as wages or employment conditions. As such, the dual labour market theory contends that advanced economies demand low-skilled workers for increasing production, which is the driving force for international migration. Responding to the limitations of these neoclassical structural approaches, the New Economics of Labour Migration theory emphasised migration as a family or household decision rather than an individual one. Additionally, the Cumulative Causation theory introduces the concept of 'replacement migration' highlighting that human mobility causes changes in social and economic structures, creating a chain of countries attracting migrants to replace those who have left. This theory aligns with the functionalist approach suggesting that successful individual experiences can give rise to a 'culture of migration' (Horváth 2023: 11). Based on the case of the Philippines, and after examining the population and labour market trends, it is our understanding that the dual labour market theory applies most from the point of view of the country of destination, while the new economics of labour migration theory applies the most from the migrant worker's perspective.

The objective of a labour migration arrangement is to maximise national interest(s) from a state perspective, and to maximise protection and benefits from the migrant worker's perspective. Therefore, whether emigration or immigration has positive or negative impacts on a country's economy or population strongly depends on that particular state's individual economic, demographic, and political situation. For a country of origin with a high rate of unemployment, emigration will have a positive effect, since the surplus labour force will leave the country. Moreover, they are likely to send a part of their earnings home (in the form of remittances) which will mean an increased revenue for the country of origin due to the inflow of remittances. According to the World Bank, in 2022 alone, the remittances flow added up to 647 billion USD from low- and middle-income countries, which meant an 8% increase compared to the previous year. In the same year the top five recipient countries for remittance inflows were India, Mexico, China, the Philippines and Pakistan (Migration Data Portal 2023). However, labour export can also have negative impacts – despite having a high unemployment rate in the country of origin. If emigration happens from sectors where there is also a lack of work force in the country of origin, it will cause sectoral labour shortages. A typical example of this is the phenomenon of 'brain drain', meaning the detrimental emigration of high-skilled workers, which reduces competitiveness and economic diversity (Ramamurthy 2003). The Department of Health in the Philippines estimates that in 2021, 51% of licensed Filipino nurses worked abroad (Beltran 2023). Furthermore, while from the business perspective, attracting low-skilled workers from

other countries can seem highly (financially) beneficial, socially, non-migrant low-skilled workers might feel threatened by the presence of foreign labour.

Current research clearly shows that the impact of immigration (labour import) on the destination countries is largely beneficial, especially in cases where the domestic population is ageing, therefore there is a lack of labour force and a burden on the state due to the pension costs (Ramamurthy 2003). Migrant workers mean additional human resources, and by filling the gaps in the labour market, they are able to increase their labour market efficiency. Raising the efficiency of the labour market will lead to a more extensive production of different industries and therefore generates economic growth. According to Haas (2020), economic growth and immigration are reinforcements of each other, as immigration can be a contributing factor for economic growth and fast-growing economies attract more immigrants (Haas et al. 2020: 280).

Therefore, instead of ad hoc, spontaneous and individually organised migration flows, well-defined, negotiated labour migration arrangements can be beneficial for both countries of origin (labour exporters) and host countries (labour importers). Nevertheless, ensuring the protection of migrant workers requires a human-rights-based approach to any such arrangement.

Multilateral labour migration agreements

The United Nations offer various institutional mechanisms and platforms of collaboration when international cooperation is necessary. In this section, we will focus only on the organisation with a singular mandate related to labour rights, without assessing any of the other institutions with a broader mandate.

In 1919, the International Labour Organization was set up to form a tripartite organisation, the only one of its kind, bringing together representatives of governments, employers and workers in its executive bodies to protect human rights at work. In 1998, the ILO adopted – amended in 2022 – the Declaration on Fundamental Principles and Rights at Work, which defines fundamental principles ILO member states are obliged to commit to,[3] while ILO instruments assume two forms: conventions, which are legally binding international treaties – to be ratified by member states – and recommendations which are non-binding guidelines on implementation, and cover various thematic areas. It is a particular trait of the conventions that each ILO member state must comply with due to their membership and not whether they ratified the Conventions or not. In addition, The Migration for Employment Convention (Revised, No. 97) and the Migrant Workers (Supplementary Provisions) Convention (No. 143) apply to persons who migrate from one country to another – including refugees and displaced persons – and cover issues appearing during the whole labour migration process. Convention No. 97

3 The ILO's 5 fundamental principles are: freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the effective abolition of child labour; the elimination of discrimination in respect of employment and occupation; and a safe and healthy working environment (ILO 1998).

and its Migration for Employment Recommendation (No. 86) were developed to help the movement of surplus labour from Europe after the Second World War. Therefore, they focus on the recruitment, employment of migrants and their working conditions and include provisions on the departure, journey and reception of migrant workers. They extend the same rights for migrant workers as nationals in areas such as pay, working hours, leaves and training. However, it implicates some limitations regarding social security as countries might have national laws or immigration regulations that contain special arrangements of benefits which are wholly payable out of public funds. As an addition to the Convention, Recommendation No. 86 provides information on accessing schools for migrants and their families, medical assistance, family reunifications and protection. It contains an Annex, which is a model agreement on temporary and permanent migration for employment and serves as a standardised employment contract to regulate the conditions of migrant workers. Convention No. 143 and its Migration Workers Recommendation (No. 151) were the first multilateral legal instruments to address issues surrounding migrant workers in irregular status and to urge measures against human traffickers. The Convention obliges nations to identify all illegally employed migrant workers within their borders and to implement necessary measures to prevent covert movements of migrants for both legal and illegal employment. It also states that migrant workers in irregular status are entitled to equal treatments for their work they actually performed compared to those of regular status. Besides the above-mentioned Conventions and Recommendations, the Private Employment Agencies Convention, 1997 (No. 181) is especially relevant in relation to migrant workers as these agencies are often involved in the recruitment and transfer of workers between states. Among others, it creates a system of licensing of agencies and prohibits charging fees directly or indirectly to workers. It obliges states to have procedures established for the investigation of complaints made by workers towards private recruitment agencies (ILO 2010: 127–130). Finally, ILO has composed further principles and guidelines for the protection of migrant workers, such the ILO Multilateral Framework on Labour Migration which intends to serve as a guide for governments, social partners and stakeholders on developing, implementing and monitoring labour migration policies. It contains comprehensive, rights-based guidelines and a collection of good practices (ILO 2006). To bridge the strategic gap between international migration policies and labour policies, the ILO signed a framework agreement with the International Organisation for Migration, the UN's migration agency.

As a member of the ILO, the Philippines is bound by all fundamental and most technical conventions, as are European countries as well. It is thus within this multilateral (legal) context that we continue our research on bilateralism.

Bilateral labour migration agreements

Bilateral arrangements between labour exporting countries and labour importing countries can outline the means of cooperation on the regulation of labour migration

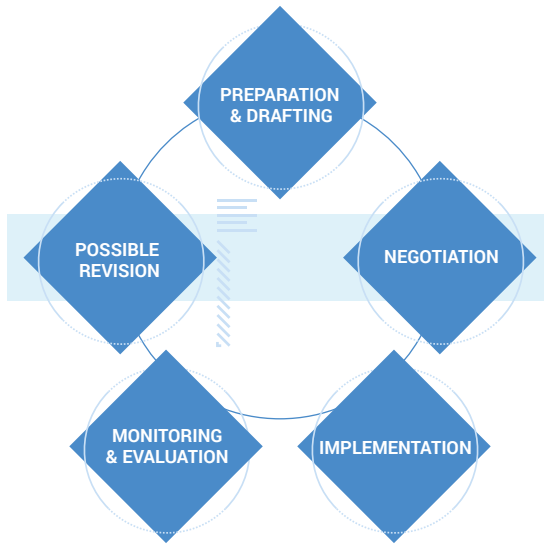

Figure 1: The BLMA cycle
Source: UN Network on Migration 2022: 23

between two states. Some regulate labour migration flow from one country to another by defining the exact number and kind of labour force movements needed in the country of destination (e.g. 2,000 construction workers from country of export to country of import), while in other arrangements, the parties only list the most important principles and set themselves broad goals for cooperation (Chilton–Woda 2022).

In order to identify the opportunities and the challenges posed by BLMAs, we must understand the creation, the nature and operation of such BLMAs.

Preparation and drafting

For effective coordination of the drafting process, the responsible ministry (usually the ministry/department of labour) establishes an inter-ministerial coordination unit to ensure that the agreement is coherent with the employment and migration agendas across the ministries of the country of origin. While the government almost exclusively retains its main coordinator role of the process, it can significantly increase the effectiveness of the agreement, if social partners and the broader civil society, such as migrant organisations or recruitment/employment agency associations, are also involved in the preparations. According to the UN Network on Migration, preliminary assessments must include basic information on the demand for migrant workers in the country of destination, including sectors and occupations, the availability of the required labour force in the country of origin, the numbers and profile of already existing labour migration flow between the two states, applicable regulatory framework on labour migration for both states, existing challenges and issues between the two states, information on local wages, as well as the

relevant multilateral agreements signed by the parties (African Union 2021: 19–22). The draft agreement might also be accompanied with a model employment contract.

Negotiations

Negotiating involves a focus on implementation modalities, which should be guided by the principles of international human and labour rights but are mostly based on the national interests of the negotiating parties. Labour-exporting countries aim to create job opportunities, and they may seek to enhance migrant protection or address specific labour market challenges, while the aim of labour-importing countries may be to fill (ad hoc) labour market gaps, restrict other forms of migration or explore related trade opportunities. Negotiations either occur through direct meetings or an exchange of drafts until a common understanding is reached, with the modality chosen based on mutual agreement and influenced by political or financial considerations (UN Network on Migration 2022: 36–37).

Implementation

The successful implementation of BLMAs necessitates active engagement from social partners and relevant stakeholders both in countries of origin and destination, depending on the agreement's scope. Achieving coherence across ministries, and even countries, requires thorough coordination among public and private stakeholders. Considering the involvement of various governance levels (e.g. national or local authorities) is crucial. To construct an effective implementation plan for BLMAs, the following should be considered according to the African Union: establishing a target number of recruited/employed migrant workers and monitoring the worker movements between the origin and destination country under the agreement. The implementation plan should encompass the supervision of recruitment agency operations, approval of employment contracts, pre-departure, and post-arrival procedures. The plans of overseeing the working and living conditions of migrant workers through labour inspection by designated authorities is crucial as well.

Compliant implementation often lags behind, especially in cases of legally non-binding MoUs (African Union 2021: 19–22).

Monitoring and evaluation

According to the ILO, legally binding BLMAs often include monitoring, such as steering committees or joint monitoring groups. These committees oversee the implementation and may be engaged to resolve legal disputes, and suggest amendments (ILO 2019: 26–27). However, the evaluation of implementation requires a more in-depth analysis than routine monitoring. It is carried out to evaluate which objectives of the agreement are achieved or to be improved and might serve as a justification for renewal or termination of the

cooperation. Evaluation (according to the African Union) should focus on effectiveness, efficiency and sustainability of such arrangements (African Union 2021: 22–24).

Legally binding and non-binding arrangements

Bilateral labour arrangements exist in various forms, and their definitions often differ in scientific and political sources.[4] More specifically, there are legally binding, bilateral labour and migration agreements, however most frequently legally non-binding Memoranda of Understanding (MoU) are used between states. BLMAs provide contracting state parties specific legal obligations under international law, while MoUs describe broader concepts, and common objectives as well as concerns on labour migration and thus provide a legally non-binding option for cooperation (Hennebry et al. 2022: 3–4). Therefore, MoUs often grant more flexibility to the signing parties and are easier to modify in response to changing labour market demands. However, implementation depends on the good faith of the state parties (Wickramasekara 2018). Therefore, BLMAs and MoUs are not part of a binary system, but rather a bundle of a range of rights and obligations of the state parties.

Analysis of the BLMAs of the Philippines with countries in the Middle East and Europe

In the following section, we will provide the results of our analysis; more specifically, the comparison of BLMAs between the Philippines and the Middle East and Europe with regards to the multilateral labour migration arrangements, introduced in the previous section.

The International Labour Organization adopted a Model Agreement in 1949 which contains 29 articles corresponding to items to be negotiated while developing a BLA/MoU (Table 1). The Model Agreement was meant as a tool to give effect to the provisions of ILO Convention No. 97 and to define the minimum configuration of a BLMA. The Articles cover the entire labour migration circle from the departure to the return, elaborate on the recruitment process, detailing the requirements of an employment contract, the working and living conditions of migrant workers and their social security arrangements (Wickramasekara 2018).

The Model Agreement is widely used by states while developing bilateral labour agreements. It is often used as a checklist for the comprehensiveness of a BLA/MoU and as a tool to assess the quality of the agreement based on its various provisions. However, recently it received a lot of criticism of being outdated in regards of certain provisions that

4 In the past, the term 'bilateral labour agreement' (BLA) was used both to refer to any (and all) kind of labour agreement between states or for a specific, legally binding form of labour agreement. Nowadays, the ILO primarily uses the term 'bilateral labour migration agreement' (BLMA) to refer to an interstate bilateral agreement on labour migration and uses 'bilateral labour agreements' (BLA) as a term for legally binding interstate labour agreements.

Table 1: ILO model agreement on temporary and permanent migration for employment

Article	Description	Article	Description
1	Exchange of Information	15	Supervision of Living and Working Conditions
2	Action against Misleading Propaganda	16	Settlement of Disputes
3	Administrative Formalities	17	Equality of Treatment
4	Validity of Documents	18	Access to Trades and Occupations and the Right to Acquire Property
5	Conditions and Criteria of Migration	19	Supply of Food
6	Organization of Recruitment, Introduction and Placing	20	Housing Conditions
7	Selection Testing	21	Social Security
8	Information on Assistance of Migrants	22	Contracts of Employment
9	Education and Vocational Training	23	Change of Employment
10	Exchange of Trainees	24	Employment Stability
11	Conditions of Transport	25	Provisions Concerning Compulsory Return
12	Travel and Maintenance Expenses	26	Return Journey
13	Transfer of Funds	27	Double Taxation
14	Adaptation and Naturalisation	28	Methods of Cooperation
29	Final provisions		

Source: ILO 1949

do not appear to be relevant in today's global context. For example, now the recruitment stage is highly dominated by private recruitment and employment agencies instead of public institutions. It also criticised the lack of a gender-based approach, as migration was less common among women at the time. Therefore, some states rather develop their own model agreement – alongside with a model employment contract – based

on the ILO guidelines and models but tailored to their own characteristics and needs (Intergovernmental Authority on Development – ILO 2021: 48–49).

The selection of bilateral labour migration agreements (BLMAs) for the analysis is based on Mangulabnan and Daquio's table, which lists all accessible agreements concluded by the Philippines. Out of the 42 listed BLMAs, 29 are available online and can be downloaded from the websites of the Philippine government or related agencies (Mangulabnan–Daquio 2019). The selection of countries for comparison was chosen based on geographical location, aiming to highlight potential differences in content and deviations from international standards in agreements concluded by the Philippines with countries in the Middle East and Europe. In Europe, six agreements exist with five countries, while in the Middle East, 17 BLMAs have been signed with ten countries. To maintain regional balance, five countries from each region were selected. For Europe, the selected countries are Italy, the United Kingdom, Germany, Spain, and Switzerland. In the Middle East, the five countries with the highest number of deployed Filipino workers and publicly available BLMAs were chosen: Saudi Arabia, Kuwait, the United Arab Emirates, Qatar, and Jordan.

In the following sections we have also systematically examined and highlighted the commitments made in the selected agreements, their clarity and flexibility, as well as their legal and political provisions, and the extent to which they comply with ILO standards. A summary of each agreement was prepared separately, covering key aspects such as the main objectives, responsibilities of each party, legal clauses (if any), and their validity. To assess adherence to ILO standards, we employed a predefined coding system and variables by Chilton and Woda, focusing on three key topics identified as best practices by the ILO. This system categorises 20 core topics derived from the 1949 ILO Model Agreement on Temporary and Permanent Migration for Employment, as well as various ILO reports authored by Piyasiri Wickramasekara. The 20 topics are grouped into three key areas: governance and labour migration, protection and empowerment of migrant workers, and migration and development linkages. The findings are then presented in a table, allowing for a comparative analysis of the agreements based on the three selected topics. This structured approach facilitates the identification of patterns and deviations, leading to our conclusions.

Labour migration governance

The first set of questions in the Chilton and Woda coding system examines the governance aspect of the agreements. As shown in Table 1 above, none of the agreements – except the Philippines' agreement with Italy – contains any references to international instruments. In the case of Italy, the agreement states: 'In compliance with the principles of the international provisions concerning the rights of migrants and the fundamental rights of workers.' However, this does not explicitly cite any treaties or conventions but rather indicates the respect and general commitment of the Parties towards international

Table 2: Ratification of international instruments by the analysed countries

International legal instrument	Ratification by Countries (✓ – ratified / × – not ratified)										
	UAE	SAU	KWT	JOR	QAT	GER	ITA	GBR	ESP	CHE	PHI
UDHR	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
ICCPR	×	×	✓	✓	✓	✓	✓	✓	✓	✓	✓
ICESR	×	×	✓	✓	✓	✓	✓	✓	✓	✓	✓
ILO – C087 – Freedom of Association and Protection of the Right to Organise C.	×	×	✓	×	×	✓	✓	✓	✓	✓	✓
ILO C098 – Right to Organise and Collective Bargaining C.	×	×	✓	✓	×	✓	✓	✓	✓	✓	✓
ILO C029 – Forced Labour Convention	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
ILO C105 – Abolition of Forced Labour Convention	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
ILO C100 – Equal Remuneration Convention	✓	✓	×	✓	✓	✓	✓	✓	✓	✓	✓
ILO C111 – Discrimination Convention	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
ILO C138 – Minimum Age Convention	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
ILO C182 – Worst Forms of Child Labour Convention	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
ILO C155 – Occupational Safety and Health Convention	×	✓	×	×	×	×	✓	×	✓	×	×
ILO C187 – Promotional Framework for Occupational Safety and Health Convention	×	×	×	×	×	✓	✓	✓	✓	×	✓
ILO C097 – Migration for Employment Convention	×	×	×	×	×	✓	✓	✓	✓	×	✓
ILO C143 – Migrant Workers Convention	×	×	×	×	×	×	✓	×	×	×	✓

Source: compiled by the authors

norms. Key stakeholders, such as workers, employers, recruitment agencies, or NGOs, shall be informed about the provisions and existence of these agreements.

Table 2 above summarises the international instruments detailed in the first part of the article based on the ratification by the analysed countries.

All agreements establish information exchange and clearly define the shared responsibilities of the Parties. However, none of the agreements include provisions on disseminating its content to ensure transparency. Regulating recruitment and recruitment costs are emphasised in most agreements, in some appearing as a primary

focus or seemingly the main reason the agreement was established. According to international standards, candidates should not be charged any fees during recruitment. This principle is explicitly recorded in the agreements with the United Kingdom, Kuwait, Saudi Arabia, and Italy.

Most agreements establish a Joint Committee responsible for monitoring and evaluating the implementation of the agreement and initiating amendments if necessary. However, the role of civil society organisations and migrant-focused NGOs in the development and implementation of these agreements is largely unrecognised. Despite their importance in facilitating interstate labour migration, nearly all agreements fail to regulate their involvement.

Based on this analysis regarding migration governance, the agreement of the Philippines with Italy on bilateral labour migration demonstrates the highest level of compliance with international standards.

Protection and empowerment of migrant workers

As the second point of analysis, we examined the protection and empowerment of migrant workers, such as the provision of information, living conditions, social protection, and healthcare benefits.

Information provision is essential for migrant workers, given their vulnerable position when relocating to another country. The state parties, recruitment agencies, and other stakeholders play a crucial role in informing workers about various aspects, including living conditions, the healthcare system, cultural norms in the destination country, and recruitment processes. The guidelines that define information provision should be directed towards migrant workers rather than exchanged solely between governments and recruitment agencies. The mere dissemination of the agreement's existence does not meet this criterion. Except for the agreement with Spain, all documents include some references to information exchange among states, recruitment agencies, and migrant workers. These are examples of information provisions in the analysed agreements: 'have received orientation on Kuwaiti laws, customs and traditions and the terms and conditions of the employment contract' (Kuwait – the Philippines); 'to guarantee that the domestic worker is familiar with the language, customs, and traditions, with the purpose of limiting misunderstandings that could happen as a result of cultural differences' (Jordan – the Philippines).

Equal treatment and non-discrimination of migrant workers require that they receive the same treatment as national workers in the destination country. This principle is only explicitly mentioned in the agreements with Italy and Germany: 'Filipino health professionals may not be employed in the Federal Republic of Germany under working conditions less favorable than those for comparable German workers' (Germany – the Philippines). None of the analysed documents contain specific provisions for the protection of women or other vulnerable groups.

Employment contracts must regulate the relationship between employers and migrant workers. Some agreements also require contracts to outline accommodations, social protection, and healthcare benefits – which are typically the employer's responsibility.

Wage protection is mentioned in only four agreements, three of which are with Middle Eastern countries. These provisions include payment into a personal bank account, issuing monthly pay slips, and ensuring accessibility for workers to their wages. The confiscation of travel and identity documents is a common violation of the rights of migrant workers. However, it is only the Philippines' agreement with Kuwait that explicitly addresses this issue: 'Ensure that the employer is not allowed to keep in her/his possession any of the domestic worker's personal identity documents such as passport' (Kuwait – the Philippines). Social protection and healthcare benefits generally refer to insurance and health coverage, often provided by the employer: 'Filipino health professionals are subject to compulsory insurance in the German social security system' (Germany – the Philippines).

Dispute resolution mechanisms focus on the settlement of conflicts between employers and employees, and not disputes between the state parties. In most agreements, a specific article is dedicated to this issue. Complaint mechanisms include the competent authorities of the Parties and, as necessary, the relevant courts as well.

All in all, protection-related issues are a significant part of the agreement in the case of Kuwait and Jordan, while in Europe, Germany has the biggest focus on migrant protection and empowerment.

Migration and development

This section examines human resource development, including initiatives to provide further training opportunities and skills improvement for migrant workers, as well as measures to facilitate their reintegration upon their return to their country of origin.

The recognition of qualifications is included in three European agreements. It is likely due to the nature of the agreements, particularly those with Germany and the U.K., which focus on healthcare professionals – high-skilled workers – in these cases, recognition of appropriate training certificates obtained in the country of origin has high importance in facilitating labour migration between the two states.

Reference for savings and remittances occurs in three Middle Eastern and one European agreement, which indicates that migrant workers shall be free to remit their savings in accordance with the local laws and regulations.

The category of *reintegration, circulation, and development* refers to the period following the expiration of a migrant worker's initial contract. The agreements with Kuwait and Qatar mention the possibility of extending contracts upon their expiry. However, based on the guidelines for the coding system, merely allowing contract extensions does not meet the criteria, as migrant workers shall have alternative pathways beyond employment contract terms to remain in the host country. Italy is the only country that explicitly addresses circular migration: 'the Italian Party will positively

Table 3: Findings of the comparative analysis of BLMAs

Value	Countries										
	UAE	SAU	KWT	JOR	QAT	GER	ITA	GBR	ESP	CHE	
References to migrant workers' rights in international instruments	×	×	×	×	×	×	✓	×	×	×	Government and Labour Migration
Exchange of information between countries	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
Transparency and dissemination of information about BLA's existence	×	×	×	×	×	×	×	×	×	×	
Defining clear responsibilities between parties	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
Establishing a joint committee	✓	✓	✓	✓	✓	✓	✓	×	✓	×	
Regulation of recruitment and recruitment costs	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
Roles of unions, employers, organisations, and NGOs/civil society groups	×	×	×	×	×	×	✓	×	×	×	
Provision of relevant information to migrants	✓	✓	✓	✓	✓	✓	✓	✓	×	✓	Protection and Empowerment of Migrant Workers
Equal treatment and nondiscrimination of migrant workers	×	×	×	×	×	✓	✓	×	×	×	
Protections for women or other protected groups	×	×	×	×	×	×	×	×	×	×	
Employment contracts	✓	✓	✓	✓	✓	✓	✓	✓	×	✓	
Wage protection	✓	✓	✓	✓	✓	×	×	×	×	✓	
Provision and supervision of living conditions	✓	×	✓	✓	×	✓	×	×	×	✓	
Prohibition of confiscation of travel and identity documents	×	×	✓	×	×	×	×	×	×	×	
Social protection and healthcare benefits	×	×	✓	✓	×	✓	×	×	×	✓	
Mechanisms for complaints and dispute resolution	✓	✓	✓	✓	✓	×	✓	×	×	×	
Human resource development and skills improvement	×	×	×	×	×	✓	✓	×	×	✓	Migration and Development
Recognition of skills and qualifications	×	×	×	×	×	✓	✓	✓	×	×	
Transfer of savings and remittances	✓	×	✓	×	✓	×	✓	×	×	×	
Reintegration, circulation, and development	×	×	×	×	×	×	✓	×	×	×	
Number of compliant values	10	8	12	10	9	11	14	6	4	9	

Source: compiled by the authors

consider the inclusion of the Philippines among the countries benefiting from seasonal labour quotas and will support joint initiatives of circular migration addressed to legally resident citizens of the Philippines.'

Overall, Italy's agreement meets all international standards in the category of migration and development.

Conclusions

ILO Conventions as multilateral legal frameworks set the minimum labour standards at the international level, as well as the specific rights of migrant workers, which each member state must adhere to when developing and implementing BLMAs. ILO conventions are legally binding, and by ratifying the ILO conventions, member states agree to incorporate the convention's provisions into their domestic laws and regulations, thereby committing to align domestic state policies with international standards.

As expected, considering its extensive labour migration history, the Philippines, as a State exporting one of the largest numbers of migrant workers each year, has a particularly developed institutional structure in bilateral labour migration governance and actively establishes bilateral labour migration arrangements with countries serving as a destination for Filipino Overseas Workers.

Having examined 10 BLMAs of the Philippines in two geographical areas – Europe and the Middle East – focusing on three thematic areas, namely migration and governance, protection and empowerment of migrant workers, and migration and development, we established that migrant workers' rights and references to international instruments (multilateral arrangements) are the least embedded in the examined bilateral arrangements. We analysed the BLMAs based on 20 provisions aiming to ensure compliance with international labour standards. Six of the analysed BLMAs did not contain half of the provisions, strengthening the statement that the adherence of such agreements to international standards is weak. Examining the common trends among the BLMAs, we observed that there is no significant difference in terms of focus between the arrangements adopted in the Middle East and in Europe, although certain provisions in the area of protection – wage protection, complaint and dispute resolution – were more frequently mentioned in the former geographical area. Adding to this observation, countries in the Middle East did not ratify either of the ILO's migrant worker conventions, and omit any legally binding clauses in their bilateral arrangements with the Philippines. Meanwhile, only the Philippines – Italy agreement contains reference to international instruments to establish a protectionary framework for the labour migration flow between the two states. The latter state is also the only in this study which ratified all listed international instruments related to labour migration.

International governance of labour migration and the implementation of international labour standards within bilateral agreements is a complex mechanism. The ratification and successful implementation of international human rights instruments, the development of bilateral cooperations, the mutual information provision between two states on the

labour market demands and supply, and a well-established institutional background are the components which can make bilateral arrangements an effective means of governance in labour migration.

It is also our conclusion that this article provides a basis for further research on the real experiences of migrant workers with its comprehensive description of the international instruments and detailed analysis of bilateral arrangements on labour migration.

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The Evolution of the Practice of the European Court of Human Rights in Domestic Violence Cases – A Comparative Overview

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The issue of domestic violence has not always been at the forefront of legal analysis regarding the practice of the European Court of Human Rights (ECtHR). Reasons for the initial apparent lack of enthusiasm from scholars can be traced on the one hand to the fact that domestic violence occurs in an inherently private and personal legal relationship and on the other hand, because domestic competences by states are predominant. This paper aims at analysing the gradually solidifying practice of the ECtHR in the field of domestic violence by applying the method of comparative case studies. From early cases such as Kontrová v. Slovakia in 2007 and Opuz v. Turkey in 2009 to recent ones, such as Volodina v. Russia in 2019 and 2021, where stalking has been a major element of domestic violence and Buturugă v. Romania in 2020, where the Court has recognised cyberbullying as an act of violence against women and girls to J.S. v. Slovakia in 2026 where a context-sensitive approach was missing according to the Court. Through a legal analysis of the Court's findings and deductions from the ECtHR's reasoning, a generalised overview of the state's responsibilities and omissions takes form to ascertain in what way the Court's practice leaned towards and to observe whether technological advancements had manifested themselves in the Court's judgments.

Keywords: domestic violence, European Court of Human Rights, obligations of domestic authorities, judicial practice

Introduction

The issue of domestic violence has not always been at the forefront of legal analysis regarding the practice of the European Court of Human Rights (ECtHR). Reasons for the apparent lack of enthusiasm from scholars can be traced on the one hand to the fact that domestic violence occurs in an inherently private and personal legal relationship and on the other hand, because domestic competences by states are even more predominant than in other areas of criminal law. Further

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aggravating the situation is the woefully large percentage of unreported instances of domestic violence, which can be caused by the fact that either the injured party is living in constant fear of the abuser, or being paralysed to stand up to the violator or the victim accusing herself of 'deserving' punishment, the latter of which derives from deep socio-cultural customs that have proven to be extremely difficult to root out.

Nonetheless, several articles of the European Convention on Human Rights (ECHR) can be invoked, such as the right to life (Article 2), prohibition of torture and inhuman or degrading treatment (Article 3), the right to respect for private and family life and correspondence (Article 8), and the prohibition of any form of discrimination (Article 14). The current article aims at analysing the gradually solidifying and expanding practice of the Court in the field of domestic violence by applying the method of comparative case studies. From early cases such as Kontrova v. Slovakia in 2007 and Opuz v. Turkey in 2009 the Court has taken great strides to develop regional human rights law in cases related to domestic violence. Recent cases, such as Volodina v. Russia in 2019, where stalking was accepted as a major element of domestic violence, the Court has established the fact that it contributes to psychological ill-treatment of the individual. Along with Buturugă v. Romania in 2020, where the Court has recognised cyberbullying as an act of violence against women and girls, which could take on a myriad of forms, including breaching the private correspondence of the victim and the ever-increasing instance of manipulation of not just data, but images and lately video footage as well. While in J.S. v. Slovakia the Court was missing a context-sensitive assessment of the case from the authorities.

Through a legal analysis of the Court's findings and deductions from the ECtHR's reasoning, a generalised overview of the state's responsibilities and omissions takes form. From police officers discrediting victims and witnesses, to simply not 'taking it seriously' when women file a complaint, a vast array of negligence can be observed from the part of the authorities. By taking their duties lightly, police authorities and prosecutors (and through attribution the State itself) have been regularly found to be responsible for not providing sufficient protection to those who are directly threatened by their husbands or domestic partners or for refusing to investigate criminal acts involving domestic violence properly.

Therefore, the present article aspires to find an answer to two primary questions. Firstly, (Q1) to what extent and in what way has the ECtHR interpreted and developed a common European understanding of domestic violence and states' obligations thereto? By this, clarity is needed in what way can the Court's practice be regarded as coherent, has there been development and if so, in what manner can it be traced. Secondly, (Q2) has the ECtHR managed to advance with the times and adapt its own practice in light of technological advancement? By this, it will be analysed if the text of the ECHR adaptable in this regard and the practice of the ECtHR is sufficiently forward-leading and progressive by incorporating technological progress and the myriad new avenues through which certain domestic-violence conduct can be committed?

As a disclaimer, it needs to be stated, that this paper will not cover gender-based violence in general, nor violence in the workplace or harassment but only tackle domestic violence where the partner (husband, wife or any long-standing current or former partner) has committed some form of physical and/or psychological violence including but not limited to sexual violence. The reason these acts fall under the purview of the ECHR and the ECtHR is because of an omission by the state: which can be a lack of normative background, institutional deficiencies or lack of professionalism by a state representative (usually police) rendering the intimate 'indoor' crime an omission attributable to the state.

The phenomenon of domestic violence

The phenomenon of domestic violence at first glance should not be a human rights matter, as it occurs in partnerships including marriage, where one party abuses their position and the trust such a partnership entails to exert control and dominate the other party. This inner circle of the family or partnership is where most harm can be done, exactly because of the trust it requires causes the other human being to 'lower their shield', expose their secrets, believe that the other party wants what is best for them, thus creating a vulnerability which the other party uses and abuses. Such a vulnerability, when coupled with the shame, self-blaming, sense of betrayal, fear and disbelief (by oneself, other family members, authorities) contributes significantly to underreporting. Underreporting by male victims is even greater due to the perceived shame, humiliation and fear of scorn by police and by the larger society forces silence. Statistics only underline these statements. A 2023 global survey of women who have suffered intimate partner physical or sexual violence – which is a narrower scope than the observed field of this paper – showed that intimate partner violence was prevalent in the extended European region with Türkiye (32%), Latvia (25%), the United Kingdom (24%) topping the charts, where women have experienced this phenomenon at least once in their lifetimes (Statista 2023). Perception – as evident by qualitative studies – depicts an even darker picture. As Vázquez et al. found in their 2021 study, 80% of women in Europe (EU survey not Council of Europe) have confessed to violence against women being commonplace in their country (Vázquez et al. 2021). These studies accentuate the systematic nature of the problem and the inestimable level of underreporting accompanying the phenomenon. Long-term health issues are also problematic even as these are more prevalent in women than men, whereas regarding men, victims belonging to the LGBTQ community fall victim more often than heterosexual men (Alejo 2014: 93).

Several authors have defined domestic violence as a manifestation of 'historically unequal power relations' (Bek–Półtorak 2025: 37). This however, is a simplified approach which neglects the complexity of the phenomenon by side-lining acts committed by former partners, domestic violence committed by women against men, LGBTQ victims, etc. As a result, this approach – although valid for the vast majority of instances – is overly simplistic and excludes several instances.

A common 'lay' criticism in a lot of such instances that is featured in the media is asking out loud, why victims do not take a stand and leave their abusers. At this point, it is noteworthy to re-iterate the findings of Burman and Chantler as they point out that class, race, cultural identification all contribute to women being unable to leave violent partners (Burman–Chantler 2005: 70–71). Another interesting phenomenon in domestic violence cases that differs from other areas of human rights is that there are not only negative obligations on the state's side, i.e. refraining from violation and to establish a normative background that supports the fulfilment of the obligation but also a positive obligation of the state in providing effective remedy in case the victim's fundamental rights have been violated by another human being (Hasselbacher 2010: 192). As we are going to see in the case law section of the current study, this effective normative background, action by authorities and remedy by courts is what will stand in the centre of the ECtHR's process in most cases.

Relevant provisions combating domestic violence under international law

Over the last decades, a robust normative background has emerged on the universal as well as on the regional level both of which are referenced regularly – and in increasing quantity by the European Court of Human Rights. These systems complement one another well with the regional protection of human rights providing a direct recourse for human rights violations for the individual.

On the international level the 1979 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) with its Optional Protocol from 2000 supplementing the provisions of the treaty and the 1993 establishment of the Office of the High Commissioner for Human Rights and the 2006 reorganisation of the Human Rights Committee into the Human Rights Council deserve special mention for laying the normative and institutional groundwork (Rudolf–Eriksson 2007: 520). Of all the norms adopted by the United Nations, General Recommendation No. 19 deserves special mention for establishing a due diligence requirement for states in combating domestic violence along with the resounding work of the CEDAW Committee (Hasselbacher 2010: 193, 197) all of which are regularly referenced by the ECtHR in its judgments.

On the regional level, all three human rights regimes contain provisions to combat domestic violence, albeit the form these take and the approach these follow differs. The adoption of the Belém do Pará Convention in Latin America in 1994 took on a holistic approach early on with putting a focus on sexual violence as the most prevalent and heinous form of violence. The Belém do Pará Convention is a trailblazer with its early adoption and specialised sphere of action, showing strong commitment from Latin American states, although it can be ascertained that gender-based violence was already prevalent in the region to necessitate such a robust response (Convention of Belém do Pará 1994).

On the African side, the 2003 Maputo Protocol mandates state parties to adopt measures regarding discrimination and violence against women since the protocol came into effect in 2005 (Maputo Protocol 2003). While a major stepping stone *per se,* several African countries have stayed away from signature and/or ratification. Coupled with the already greatly limited access of nationals to turn to the African Court on Human and Peoples' Rights, the current system leaves a lot of room for improvement (Vesa 2004: 358).

Undoubtedly the regional system with the most diverse case law underscored by the largest number of cases is that of the Council of Europe with the 1953 European Convention on Human Rights which created the European Court of Human Rights. As a major stepping stone, the 2011 adoption of the Istanbul Convention which does not only protect women from violence but specifically mandates protection from and prosecution of domestic violence and the work of the Group of Experts (GREVIO) are capable to define the obligations of states and nudge member countries towards a deeper understanding of the phenomenon along with concrete steps to be taken. Of the passages of the ECHR, four articles stand out as likely to be violated when domestic violence is committed, namely Article 2, the right to life, Article 3, the prohibition of torture and inhuman or degrading treatment, Article 8, the right to respect for private and family life and correspondence and Article 14, the prohibition of any form of discrimination (ECHR). As we will see in the subsequent section, violation of these articles individually or in conjunction will be the focal point of the Court's analyses concerning the cases brought before it. The cases in this paper were selected based on whether they highlighted a novel aspect that was not covered in previous judgments and made a significant contribution to the case law of the ECtHR. As a result, the selection will naturally be somewhat arbitrary and without claiming completeness.

Case law of the ECtHR

From the beginnings to Opuz v. Turkey (–2009)

The first cases that will later serve as reference points for the ECtHR's judgments came at a perilous moment, just as domestic violence and most states' ineffective approach to combating the phenomenon were loud not only in the media but in academia as well (Dempsey 2007: 920–921). In *Kontrová v. Slovakia* (2007) despite emergency calls by the victim, police inaction has led to the death of the applicant's children. Due to a lack of remedy the violation of Article 13 was pronounced (right to an effective remedy) and the death of the children meant a violation of Article 2 was also found to have occurred per the judgment. Kontrová was a landmark case in which the responsibility of the state was pronounced when police failed to respond properly after a complaint concerning domestic violence (Kontrová paras. 53–55; Bradley 2018: 128). The ECtHR also provided

a list of obligations for state authorities to carry out in the future in order to avert the outcome of the loss of life as well as their responsibility before the Court such as

> 'accepting and duly registering the applicant's criminal complaint; launching a criminal investigation and commencing criminal proceedings against the applicant's husband immediately; keeping a proper record of the emergency calls […] taking action if the perpetrator had a weapon and made a violent threat with it' (Kontrová para. 53; Šprem 2023: 217).

Two years later in *Tomašic and Others v. Croatia* (2009) a baby and a mother were murdered by their father/husband after he was released from jail. The domestic court ordered psychiatric treatment for the perpetrator due to prior mental troubles and experts testifying of his lack of sound decision-making capabilities coupled with violent tendencies but these treatments stopped after his release. As it turned out, a lack of treatment by prison staff was already causing problems during incarceration with staff not having adequate means to control his behaviour. The case highlighted the positive obligation to take appropriate measures if the 'authorities knew or ought to know' of a 'real and immediate risk to life' (Tomašic para. 51).

The most notable case among the relatively early practice of the ECtHR is undoubtedly *Opuz v. Turkey* (2009). Labelled a 'landmark' (Briddick 2024: 108) and a 'milestone' (Hasselbacher 2010: 214; Khrystova 2014: 117) by academia, its novelty and greatness lie in the fact that it declared gender violence as a form of discrimination (Tolbaru 2022: 155). While the Opuz reasoning demanded that the authorities take the 'full picture' into account when deciding on the vulnerability of the victim (Opuz, para. 126; Erbaş 2021: 9–10), it has led to divergent trails where in certain cases the ECtHR chambers have demanded that the applicants engage in a high-threshold proving of systematic discrimination, ill-treatment or general passivity by the authorities, whereas in others openly accessible data could be deemed sufficient by other chambers to substantiate the discriminatory practice of the domestic authorities (Briddick 2024: 117).

The era of diversification (2010–2018)

The second era of the case law of the ECtHR marked a so-called 'building' phase where the Court has comfortably relied on previous case law so that it could focus on ancillary matters which have nonetheless been of utmost importance for the protection of and redress to victims. First among these new generation of cases was *Kalucza v. Hungary* (2012) where the victim has made numerous complaints against her abuse partner. While there were several civil cases pending to evict him from the flat they shared; the inaction by the authorities was what the Court found problematic, namely the fact that despite multiple direct pleas, no restraining order was issued enabling the perpetrator to continue his abusive and violent behaviour violating the victim's right to privacy as enshrined in Article 8 of the ECHR. A further problematic point identified by the Court

was that authorities failed to give adequate reasoning as to why the restraining order was not issued, leading the ECtHR to the conclusion that there was no valid reason not to issue the restraining order other than the fact that the authorities had not treated the complaint with the seriousness it represented (Kalucza para. 65; Londono 2012: 347).

Rumor v. Italy (2014) took a vastly different turn than previous judgments. Here the victim was assaulted by the perpetrator (hit several times), threatened with a knife and scissors and locked in their shared flat. The Court found that ill-treatment by the authorities could not be substantiated as per Article 3 even though it is their duty to deter would-be perpetrators and punish the commission of crimes such as domestic violence (Rumor, para. 58). The ECtHR took a drastically different approach than the chamber in Kontrová v. Slovakia, when it espoused that it is no position to prescribe to authorities what they ought to do in a given scenario (Rumor, para. 59). The fact that the Court has not substantiated any violation – as the legal framework was in place and the authorities responded swiftly by freeing the victim and initiating a criminal process against the perpetrator – met with severe criticism from some scholars (Mujuzi 2016: 180). While others contemplated that the approach used by the Court is not sufficiently sensitive of the matter and had the Istanbul Convention came to effect by this point, the outcome of the case could have been different (McQuigg 2015: 1024). This latter thought was emphasised by McQuigg and Murphy who combined their critical remarks with the living instrument doctrine arguing that the Istanbul Convention could have been applied in the case as Italy has signed the Convention three years' prior (Murphy 2019: 1354; McQuigg 2015: 1024). However, applying a treaty not yet in effect and calling on states to enforce it could be regarded as judicial activism and as such, could lead to valid criticism regarding the practice of the Court, especially as such actions can call into doubt whether the Court is applying existing law or future/desired norms with next to no legal basis at the time of the judgment.

A few years later, in *Bălșan v. Romania* (2017) the victim suffered repeated conjugal violence. While the normative framework – i.e. criminal law provisions – were in place, the authorities did not use them. Instead, police claimed that the applicant 'provoked' violence, a classic example of victim blaming. Due to the passivity of the authorities even after numerous complaints by the victim, the Court found that violations of Articles 3 and 14 did occur while at the same time it has admonished the general practice of local authorities (Bălșan para. 82). The ECtHR also found that as a result of the authorities tolerating domestic violence – which became well-known among the general population – the deterrent effect of criminal provisions has become negligible (Bălșan para. 87; Murphy 2019: 1356; Sperling–Sundstrom 2024: 126).

In the very same year in the *Talpis v. Italy (2017)* judgment, where the victim's alcoholic husband murdered his own son and attempted murder of herself, the Court found that there was an atmosphere of violence and that by discarding complaints the authorities encouraged increasing violence and that their attitude in doing so was discriminatory (Talpis, para. 141). Indeed, the failure of the police to take action led to impunity emboldening the perpetrator to commit murder (Bradley 2018: 128) and

that there is a chance that should the authorities have carried out a timely questioning, the serious bodily injury of the victim and death of her son could have been avoided (Goldscheid 2018: 574). The Talpis judgment is noteworthy because it takes place in the same state – Italy – as the Rumor case, the conduct is not at all dissimilar, albeit the outcome is different. Here the authorities did not initiate an investigation nor did they protect the victim through a restraining order on the alleged perpetrator leading to a violation being substantiated by the ECtHR for Articles 2 and 3 (Talpis, paras. 145–146). Furthermore, the victim has provided evidence including statistical data that domestic violence was a widespread phenomenon in Italy (Murphy 2019: 1356). As the Court noted, the authorities responding 7 months after the complaint was filed constitutes remarkable judicial passivity (Talpis, para. 141; Capone 2017: 43–44). In other words, the normative framework was there – especially since the Istanbul Convention came into effect during the various steps of the Italian legal process but authorities were either not prepared to use it or were not willing to engage in enforcing its provisions domestically.

The epoch of solidification and modernisation (2019–2026)

Volodina v. Russia (No. 1) (2019) is emblematic because of two reasons. The first is the plethora of acts constituting domestic violence such as repeated acts of stalking, kidnapping, threats, assaults by the former partner which highlighted a systemic lack of norms by Russia as domestic violence was not *ipso facto* recognised coupled with inadequate methods such as no restraining orders in the domestic legislation which the ECtHR regarded as omission by legislature that is attributable to the state under general rules of state responsibility in international law. The Court has re-iterated that it is the obligation of states to have adequate criminal provisions which provide recourse for the victims but also deterrence for the perpetrator which were missing in the present case (Volodina No. 1, 2019, paras. 57–58). The second facet why the Volodina (No. 1) is so remarkable as this was the instance where the ECtHR has elaborated in the criminalisation of psychological violence in the context of Articles 3 and 8 recognising the cumulative effects of psychological abuse which might reach the threshold to be criminalised (Hedlund 2024: 19). Of course not necessarily every case of 'psychological domestic warfare' would be considered domestic violence as this would open unnecessary avenues for domestic strife and has the potential to label minor in-house quarrels as domestic violence, but according to the Court's assessment, feelings of fear, anxiety and powerlessness, in combination with the perpetrator's controlling and coercive conduct, constitute 'inhuman treatment' under Article 3 of the ECHR (Volodina No. 1, para. 75; Hedlund 2024: 4).

The separate opinion of Judge Pinto de Albuquerque deserves special mention here. Judge de Albuquerque has raised the issue that, besides the violation of Article 3 of inhuman treatment, the question of torture also needs to be addressed as the severity of the act in question and indeed, several instances of prolonged domestic violence may meet the criteria for torture (Volodina No. 1, separate opinion of Judge Pinto de Albuquerque

para. 9; McQuigg 2021: 163–164). Taking a deeper look at the judge's arguments, while the factual threshold for torture can indeed be reached, the secondary argument that the 'positive obligation to protect would be even more stringent' is more akin to pressuring states into taking the issue seriously by coming to a more severe conclusion. 'Educating or motivating' states in this regard falls outside of the competencies of the court, and might be labelled excessive activism by the critiques of the ECtHR.

On a side note, Volodina No. 1 had an interesting effect on domestic norms. After decriminalising domestic violence in 2017 – save for the more violent forms resulting in broken bones and even more serious outcomes – the Volodina No. 1 judgment in 2019 has caused a new bill to be drafted but the compromise provision-draft was heavily criticised by both sides of the argument for either 'attacking traditional family values' or for 'not encompassing all forms of domestic violence and not mandating prosecution of perpetrators' (Roberts 2021: 338–339). Due to the domestic, political strife surrounding the draft, the momentum of the Volodina judgment was lost and Russian provisions on domestic violence were not amended. Nonetheless, at least the judgment contributed to the discussion being held on the societal level even if a concrete outcome was not reached.

A new tendency can be observed starting with *Tërshana v. Albania* (2020) where an acid attack against the victim by the former husband has occurred on the street. Here the Court found a substantial and procedural violation of the right to life in Article 2 of the ECHR. From a substantive standpoint, the Court observed that on the one hand, there is an effective criminal law framework in the state, while the authorities had no prior information of threats made against the victim, therefore they did not 'ought to know or knew' of a credible risk to the victim's life (Tërshana paras. 150–151). However, the Court also found that a procedural violation of Article 2 did occur, as authorities did not acknowledge the fact that a case of gender-based violence occurred and the victim did not receive proper information regarding her case even after multiple queries (Tërshana paras. 157, 161). As the ECtHR has categorically iterated for posterity: 'Violence against women was under-reported, under-investigated, under-prosecuted, and under-sentenced' (Tërshana para. 156; Erbaş 2021: 11).

Buturugă v. Romania (2020) that same year is among the first cases adjudicated by the Court where there is technological element. In the case there was an intrusion into private life, breaching online correspondence, and criminal acts have been committed in cyberspace while the authorities deemed the case not to merit a proper investigation. The Court not only substantiated a violation of Articles 3 and 8 of the ECHR but acknowledged the widening scope of the phenomenon as the authorities were aware, or should reasonably have been aware, of a 'real and immediate risk of ill-treatment' but failed to take appropriate measures that fell within their competence to prevent that risk of ill treatment (Buturugă para. 76). The ECtHR also acknowledged that actions carried out in cyberspace can also constitute domestic violence. The Court has also highlighted the multifaceted nature of the problem and the obligations of investigative authorities, therefore the Court examined whether effective measures were taken to protect the

privacy of the victim (Alasgarova 2026: 68–69). From the point of view of physical injuries, it was established that while authorities accepted the injuries on the body of the victim and the medical records, no effort was made to discern where the injuries came from, i.e. who was responsible for the act(s) in question (Buturugă paras. 67–68). Thus – per the Court's findings – it is evident that the authorities have neglected their essential duties of diligence (Gold 2020).

The second *Volodina v. Russia (No. 2)* (2021) case had relatively different focal points than the first Volodina case two years prior. In the present case the perpetrator impersonated the victim online using her image to do so while also conducting online surveillance the victim did not consent to, nor was she aware of this fact (Volodina No. 2 para. 48). Here the Court came to the conclusion that albeit the criminal law provisions of the Russian code were on par with the state's obligations under the ECHR, insufficient remedies were found in the criminal code (Volodina No. 2 paras. 51–54). Specifically, the Russian system – according to the judgment – applied a rather arbitrary 'interlocutory restraining or prohibition order' which was entirely dependent on the assessment of the investigative authorities whether the circumstances were 'extraordinary' enough to warrant it (Volodina No. 2 para. 60). As noted by Costello, the Court relies on the Buturugă judgment a year prior to emphasise the gender-sensitive approach it employs and expects state authorities to apply said approach in their conduct of the investigation and subsequent legal process while the Court noted the particularly underhanded and hard-to-detect nature of cyberstalking (Volodina No. 2, para. 48; Costello 2021: 618–619).

Similarly to Volodina No. 2, in *M.Ş.D. v. Romania* (2025), the technological element was also present, when the perpetrator disseminated intimate photographs of the victim that she did not give her consent to her former partner resulting in online harassment causing a violation of the right to privacy under Article 8 of the ECHR (M.Ş.D. para. 60). Besides the online platform, the case is an almost classic display of authorities not taking the victim's claims seriously even stipulating that it was the victim who disseminated intimate photos of herself (M.Ş.D. para. 104).

The brutal case of *X. v. Cyprus* (2025) includes a woman who was gang-raped by a group of 12 men with several of the perpetrators making a video recording of the event. In its decision establishing the responsibility of Cyprus for violation of Articles 3 and 8 of the ECHR, the Court relied heavily on the Istanbul Convention and the work of GREVIO, while citing the Volodina No. 2 judgment as a reference point, thereby indicating how much of a cornerstone the latter decision had become in order to ascertain effective investigation standards (X. para. 89). The Court found that the authorities forced the victim to recount the events thus reliving the trauma while in other cases berated her for not providing all of the details of the act in question during certain stages of the process, meanwhile emphasising the lack of internal, bodily harm arising from the act in question and neglecting the psychological elements along with the humiliation and fear the victim suffered and constantly returning to accusations of false reporting thus putting pressure on the victim to doubt the veracity of the events (X. para. 95–96).

On a side note, the case only counts as domestic violence because the victim was engaged sexually and to some extent romantically with one of the perpetrators.

The latest case in the practice of the ECtHR is *J.S. v. Slovakia* (2026) where physical and psychological attack was committed by the perpetrator coupled with death threats (J.S. para. 5). The cornerstone of the case was a procedural violation of Article 3 of the ECHR, namely whether a 'gender-based violence perspective' and a 'context-sensitive assessment' has been conducted by the authorities to which the Court answered in the negatory (J.S. para. 58, 63). Regarding the systematic nature of discrimination against women, the Court found that it is not sufficiently satisfactory in terms of the burden of proof to point at CEDAW reports in general. Statistical data and pinpointed evidence in the exact report needed to satisfy this threshold in the current case (J.S. paras. 72–73).

Comparative overview and discussion

Table 1: Comparative overview of the most relevant cases from the practice of the European Court of Human Rights regarding domestic violence

Case	Year of judgment	Relevant articles of the ECHR	Cause of violation	Technological aspects of the case
Kontrová v. Slovakia	2007	2, 13	inaction of authorities, lack of remedy	none
Tomašic and Others v. Croatia	2009	2	inaction by authorities in case of a direct threat to life that they 'ought to know' or 'knew' of	none
Opuz v. Turkey	2009	2, 3, 14	systematic discriminatory practice by the authorities	none
Kalucza v. Hungary	2012	8	not issuing restraining orders	none
Rumor v. Italy	2014	3, 14	no violation – legal framework in place, swift response by the authorities	none
Bălșan v. Romania	2017	3, 14	not applying existing norms; victim blaming	none
Talpis v. Italy	2017	2, 3, 14	discarding complaints, discriminatory approach towards women	none
Volodina v. Russia (No. 1)	2019	3	threshold for psychological abuse to be criminalised	none
Buturugă v. Romania	2020	3, 8	criminal acts in cyberspace did not merit proper investigation	cyberspace – digital invasion of privacy

Case	Year of judgment	Relevant articles of the ECHR	Cause of violation	Technological aspects of the case
Tërshana v. Albania	2020	2	authorities did not acknowledge gender-based violence; lack of information to victim	none
Volodina v. Russia (No. 2)	2021	8	omission of legislature in adopting norms required by the ECHR	online impersonation of the victim; intimate partner surveillance
M.Ș.D. v. Romania	2025	8	inadequate legal framework; failure to conduct prompt investigation	online harassment, dissemination of intimate pictures online
X. v. Cyprus	2025	3, 8	revictimisation, victim blaming, creating a gender-based stereotype hindering the effectiveness of reporting	none
J.S. v. Slovakia	2026	3, 14	failure to conduct a context-sensitive assessment and to take into account a gender-based violence perspective	none

Source: compiled by the author

During the first array of cases between 1997 and 2014, 22 cases of domestic violence were decided by the Court (Cichowski 2016: 909). During the epoch that roughly corresponds with this timeframe, the ECtHR laid the groundwork for its future judgments with the Kontrová, Tomašic and Opuz judgments making general statements on the theoretical background on how it perceives domestic violence-related cases in Opuz that permeate nearly all future cases. During the following decade, clarifications needed to be made on how the states' obligations are shaping in terms of restraining orders and preventive measures in Kalucza v. Hungary, victim blaming coming to the forefront in Bălșan while discrimination was further elaborated on in the Talpis decision. The more recent cases from the two Volodinas to X. v. Cyprus and J.S. v. Slovakia show that the Court expects States to adopt the Istanbul Convention and be mindful of GREVIO's work along with holding them to rising standards of adopting a 'context-sensitive assessment' and to take into account a 'gender-based violence perspective'.

The Court's practice has been remarkable even during the first one and a half decade of cases (Choudhry 2016: 418). Since then, the decisions have become nuanced, intricate in how they build upon one another very much alike to a well-built house with bricks and foundations representing earlier cases. It is also worth noticing how the ECtHR is using a plethora of non-binding sources such as declarations, reports, guidelines

and other soft law documents reflecting the emergence and dissemination of recent normative development (Demir 2021: 90). A long-standing criticism from certain parts of academia stems from the perception that reliance on soft law blurs the line between progressive norm seeking on the one hand and hard law defining the exact contents of states' obligations on the other (Rachovitsa 2015: 880). While this is true in some cases, such direct formulations either remain as separate opinions for the time being (see for instance Judge Pinto de Albuquerque's separate opinion in Volodina No. 1) or are substantiated by hard law in the judgments themselves (J.S. v. Slovakia). On a more technical note about the sources, publicly available quantitative data is becoming ever more important in the evaluation of the ECtHR to determine the systematic nature of domestic violence where the victim needs to prove the systematic nature of the problem due to the burden of proof being on them as applicants (Sękowska-Kozłowska 2024: 1728–1729). There is a major conundrum, however, namely that while in race- or homophobia-motivated cases, the reasons of the perpetrator can be relatively easily deduced, the gender-based violence in a domestic setting is much harder to ascertain as a significant portion of the authorities treat these cases as inter-personal conflicts, where the authorities should not intervene (Sperling–Sundstrom 2024: 125).

Last but not least, as Devaney points out, the most visible tool of domestic violence is direct punishment of the perpetrator and the acknowledgment of the wrongdoing along with compensation for the victims. Criminal law, however, is only one tool to remedy the phenomenon of domestic violence and while other methods might be more humane, cost-effective or simply efficient, the punitive aspect as a last resort must not be neglected either as it serves as the last recourse for victims (Devaney 2014: 484).

In order to answer the second research question on the technological elements, i.e. new technologies, platforms and methods of committing domestic violence, it can be surmised that these are present either as tools or platforms (Buturugă, Volodina No. 2, M.Ş.D) but not as means or foundationally new *modus operandi.* This might change however, as with the dominance of artificial intelligence seeping into numerous aspects of daily lives as well as the possibilities it holds, it is likely a matter of time before artificial intelligence-related cases make it to the Court. With the time it takes for cases to reach the level of ECtHR and artificial intelligence becoming prevalent since 2023, it will take an estimated 1–3 years before the first cases are visible. At that moment, the Court will need to assess how it understands domestic violence from an artificial intelligence perspective.

As per the assessment of the case law of the ECtHR, the protection awarded by the Court is robust albeit with minor inconsistencies (Ristik 2020: 83). The Council of Europe system and its challenges – numerous challenges such as the ever-increasing number of cases, recurring cases where the state has not remedied the systematic violation, positive subsidiarity and many others still – is a well-functioning system that serves hundreds of millions when their human rights have been violated (Krenc 2025: 14–16).

Conclusions

The phenomenon of domestic violence can be regarded as widespread in all Council of Europe member states as the systematic nature of these acts and authorities' regular blunders or mishandlings of such situations lie consistently at the focal point of the Court's analysis of a given case. It can be ascertained, however, that States and their authorities operate by different level of 'awareness' in how much they emphasise victim-centred and gender-sensitive investigative techniques or are aware of the high level of underreporting in the territory under their sovereignty. The speciality of domestic violence cases can be traced to the fact that compared to other human rights enshrined in the ECHR such as freedom of speech or the right to property, the state in the case of domestic violence is not the direct violator of rights but is supposed to ensure a 'secondary' set of norms: protection, prevention, investigation and access to justice for the victims. While domestic violence can take on many forms including physical and psychological violence, the Court focuses on the former as well as on the acts of authorities due to the fact that physical evidence is easier to obtain and also because in many cases, the victims themselves might not be aware of the phenomenon if only the psychological elements manifest themselves in the commission of domestic violence.

The practice of the ECtHR serves as a valid tool for interpreting the Convention not only for incorporating modern approaches in combating domestic violence and by pointing out systematic errors that might arise but by treating the European Convention on Human Rights as a living instrument that can be developed as underlying societal shifts occur and as novel legal provisions are adopted on the universal, regional and domestic level. The decisions of the ECtHR can be a catalyst for decision-making process regarding domestic violence, but initiative remains on the State-level and as such political will is required for meaningful change to be felt. Expectations have changed from the Court's point of view towards states, however, as what is required of them has become more nuanced in later years as seen in X. v. Cyprus where systematic errors were pointed out in creating a system where gender-based victimisation and usage of stereotypes has hindered the effectiveness of reporting and investigating mechanisms. Or as it can be observed in the fresh J.S. v. Slovakia case, where the ECtHR has found that a 'context-sensitive assessment' by authorities was the proper content of the obligation placed on authorities. This shows development not in the Convention itself, not even a landmark or fundamental revision of existing obligation by the Court, but merely a slight adjustment as societal demands and understanding of official duties are evolving over time.

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The Holy See and International Legal Issues Concerning Children and the Family

With Particular Regard to the UN Convention on the Rights of the Child, Population Conferences, and the 1983 Charter of the Rights of the Family

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The present article provides a brief overview of the Holy See's position under international law with regard to the legal status and rights of the child, as well as the institution of the family. Our aim is to outline, in a rather schematic manner, the extent to which the Holy See has been able to assert its own approach within the relevant fields of international legal regulation. The Holy See in the 20th century, based on its social teachings, has developed a strong and consistent position at international level regarding the protection of human rights, with a particular focus on the rights of the child and the rights of the family. Even if the Holy See has never become a member of the United Nations and still today it maintains its observer status, it has been more and more active in contributing to international codification efforts in this field. The travaux préparatoires of the UN Convention on the Rights of the Child show this active participation in law making clearly, but as this article shows, it could only have a very limited influence on the treaty.

Keywords: Holy See, human rights, family, rights of the child, UN

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The Holy See's contribution to the drafting of the Convention on the Rights of the Child[3]

The 1989 Convention on the Rights of the Child (CRC) is among the very few[4] universal human rights treaties to which the Holy See is a party and in whose drafting process it actively participated. The initiative to elaborate the Convention was originally put forward by the Polish government in 1978 – significantly, in the very year of Karol Wojtyła's election as Pope – within the framework of the United Nations Commission on Human Rights. In the following year, the Commission established a working group (Detrick 1992: 1) tasked with examining the Polish draft convention (Polish People's Republic 1978: 48). The codification process lasted nearly a decade, and the importance attached to the instrument is well illustrated by the fact that, following the deposit of the required number of ratifications (twenty), the CRC entered into force as early as 1990.

International legal protection specifically devoted to children's rights, however, predated the CRC. Earlier instruments had already addressed particular aspects of child protection, notably in the context of child labour, within the framework of the International Labour Organization.[5] Moreover, although not formally regarded as sources of international law, the CRC's normative antecedents include the Declaration of the Rights of the Child (Office of the United Nations High Commissioner for Human Rights 2007a: 3) adopted by the General Assembly of the League of Nations in 1924, as well as the identically titled Declaration adopted by the United Nations General Assembly in 1959 (United Nations General Assembly [UNGA] 1959).

From the outset of the negotiations, the Holy See advanced a proposal during the discussion of the preamble, supported by several other states, to include an explicit reference to prenatal life, in line with the wording of the 1959 Declaration of the Rights of the Child. The third preambular paragraph of that Declaration states: 'Whereas the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, *before as well as after birth*'(emphasis added).

In accordance with this formulation, the Holy See advocated for the inclusion of the phrase 'before as well as after birth' in the preamble of the CRC. This proposal was opposed by other delegations on the grounds that such wording would compromise the Convention's neutrality with regard to abortion and that the definition of the 'child' should be addressed not in the solemn introductory part of the treaty but rather in its

3 For a detailed analysis of the international legal obligations of the Holy See concerning children's rights, see Lux, Ágnes (2022): *Gyermekjogok és kereszténység: a Szentszék nemzetközi gyermekjogi kötelezettségei.* Budapest: HVG-ORAC.

4 In fact, only three universal human rights treaties exist to which the Holy See is a party. In addition to the Convention on the Rights of the Child and its Optional Protocols discussed throughout the text, these include the 1965 International Convention on the Elimination of All Forms of Racial Discrimination and the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

5 See, for example, the 1973 Convention concerning Minimum Age for Admission to Employment (as well as earlier conventions concluded on the same subject), and the 1999 Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

operative provisions, specifically in Article 1 (UNCHR Working Group 1980). As a compromise, and upon Ireland's suggestion, the working group decided to place the Holy See's proposed language in square brackets, pending the finalisation of Article 1 (UNCHR Working Group 1980: 102). Ultimately, once agreement was reached on the latter, the bracketed text was deleted.

The delegations supporting the deletion argued that, given the deliberately neutral formulation of Article 1 and the significant diversity of domestic abortion laws at the time, only the omission of the contested phrase could ensure the widest possible participation of states in the Convention (United Nations Commission on Human Rights, Working Group 1980: 102). Other delegations, by contrast, maintained that the Holy See's proposal was sufficiently neutral, as it did not specify the precise temporal scope of prenatal protection (UNCHR Working Group 1980: 102). Still others suggested that, since the majority of domestic legal systems – while not necessarily recognising the fetus as a child or person – nevertheless afforded it some degree of legal protection, this reality could justify explicit consideration of the issue within the Convention itself.

The debate was eventually postponed, with the working group seeking to resolve the matter in subsequent sessions by removing the Holy See's proposal from the draft while compensating for this omission by referencing the 1959 Declaration elsewhere in the text (UNCHR Working Group 1980: 102). Such a solution would have considerably softened the Vatican's preferred formulation. This compromise, however, proved insufficient for delegations favouring a more permissive approach to abortion, which ultimately rejected even an explicit reference to the relevant passage of the Declaration.

Notably, the issue resurfaced at a much later stage of the codification process, nearly nine years after negotiations had begun. At that point, several states once again sought to incorporate the phrase 'before as well as after birth' into the preamble. These formally distinct but substantively identical proposals were advanced primarily by predominantly or significantly Catholic states, including the Federal Republic of Germany, Ireland, Malta, the Philippines, and the Holy See itself (UNCHR Working Group 1988: 108), and were supported by both Catholic and Muslim states such as Italy, Venezuela, Senegal, Kuwait, Argentina, Austria, Colombia, Egypt, as well as by a non-governmental organisation (UNCHR Working Group 1988: 109). Opposing them were primarily states with Protestant majorities, religiously plural societies, non-Christian states, or states adhering to officially atheist ideologies, including Norway, the Netherlands, India, China, the Soviet Union, Denmark, Australia, Sweden, the German Democratic Republic, and Canada (UNCHR Working Group 1988: 109).

Delegations opposing any reference to prenatal life argued that it was unnecessary to reopen a debate previously closed due to the lack of consensus, that the fetus could not be regarded as a person, and that the Declaration would in any event be superseded by the Convention, rendering strict adherence to its formulations unwarranted (UNCHR Working Group 1988: 109). Poland, for its part, contended that the existing preambular wording reflected a delicate balance that did not exclude fetal protection and allowed for broad interpretation (UNCHR Working Group 1988: 109). The Italian delegate went

further, suggesting that fetal rights amounted to norms of *ius cogens,* since the principles of the Declaration had never been openly contested by any state and reflected the shared moral conscience of the international community, without contradicting the concept of 'responsible motherhood' (UNCHR Working Group 1988: 109).

Ultimately, the position supported by the Holy See prevailed. The ninth preambular paragraph of the CRC incorporates the relevant wording of the 1959 Declaration, stating:

'Bearing in mind that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, *before as well as after birth*"' (emphasis added).

During the negotiations concerning the treaty definition of the 'child' and the right to life of the child, the Holy See reiterated its position regarding the status of the fetus. The Vatican's representative – formally participating as an observer – maintained that life begins at the moment of conception and that the transmission of life is intrinsically linked to marriage, which alone is entrusted with this mission (UNCHR Working Group 1988: 121–122). The states ultimately adopted a formulation that refrained from determining the temporal beginning of childhood or human life, specifying only its endpoint at eighteen years of age, subject to exceptions under domestic law where majority is attained earlier.[6]

In this context, it is worth noting that the term *inherent* (or *inhérent* in the French version) does not mean 'innate' or 'inborn' in a strictly biological sense but rather denotes a quality that is intrinsically attached to, inseparable from, and implicit in a given status.[7] The Spanish version of the Convention similarly employs the term *intrínseco,* meaning 'internal', 'essential', or 'indispensable'.[8] This interpretation does not necessarily imply a prohibition of abortion under international law, since the right to life is not absolute and only the arbitrary deprivation of life is prohibited, although developments in international human rights law increasingly point toward an absolute prohibition in the case of persons already born.

This translational issue is not isolated, as Hungarian legal instruments have consistently rendered *inherent* in this manner, including in the International Covenant on Civil and Political Rights and the Convention on the Rights of Persons with Disabilities. At the signing of the CRC in 1989, Archbishop Renato Martino, then Permanent Observer of the Holy See to the United Nations, argued that although the Vatican would have preferred the explicit inclusion of the unborn child's right to life in the operative provisions of the Convention, the ninth preambular paragraph nevertheless provides authoritative guidance for the interpretation of the CRC (Office of the United Nations High Commissioner for Human Rights 2007b: 253). The Holy See reinforced this position

6 See Article 1 of the Convention on the Rights of the Child.

7 Macmillan Dictionary Online: Definition of 'inherent': https://www.macmillandictionary.com/dictionary/british/inherent and Larousse Dictionary Online: Definition of 'inhérent': https://www.larousse.fr/dictionnaires/francais/inh%C3%A9rent/43102#definition.

8 Real Academia Española Dictionary Online: Definition of 'intrínseco': https://dle.rae.es/intr%C3%ADnseco?m=form

through an interpretative declaration submitted upon signature (United Nations Treaty Collection s. a.), expressly referring to Article 31 of the 1969 Vienna Convention on the Law of Treaties, which includes the preamble among the elements relevant for treaty interpretation.[9]

The importance attached by the Holy See to the international legal protection of children's rights is further demonstrated by the fact that it was the fourth entity to accede to the CRC, following Ecuador, Ghana, and Viet Nam (United Nations Office of the High Commissioner for Human Rights s. a.).

The 1983 Charter of the Rights of the Family

On 22 October 1983, following the recommendations of the 1980 Synod of Bishops (Synod of Bishops 1980) devoted to the 'Christian family', the Holy See promulgated the *Charter of the Rights of the Family* (hereinafter: the Charter). Its provisions are largely grounded in the doctrinal teachings of the Catholic Church. It is worth noting that the rapporteur of the Synod was Joseph Ratzinger, later Pope Benedict XVI (Synod of Bishops 1980).

Taken together, the preambular paragraphs of the Charter outline a coherent definition of the family. According to this conception, the family is founded upon marriage (Holy See 1983: para. B), understood as an intimate and complementary union of life between a man and a woman. Marriage is presented as a natural institution whose exclusive mission is the transmission of life (Holy See 1983: paras. B–C). From the perspective of the Holy See, marriage thus constitutes not merely the framework but also the very purpose of procreation (Holy See 1983: para. B). The marital bond – freely entered into and publicly affirmed by the spouses – is, therefore, intrinsically oriented toward the generation of children.

On this basis, the family is described as a natural society that precedes the state and any other form of community and possesses specific, inalienable rights of its own (Holy See 1983: para. D). It is more than a legal, sociological, or economic unit; it is also a community of love and solidarity (Holy See 1983: para. E). Pope Francis, echoing the position of the French Episcopal Conference, has emphasised that marriage 'transcends the feelings and momentary needs of the couple', as it arises from a profound mutual commitment between the spouses and toward their shared life project (Francis 2014: para. 66). In addition to its primary aim of transmitting life, the family is entrusted with the transmission of cultural, moral, social, spiritual, and religious values indispensable to both family members and society as a whole (Holy See 1983: para. E).

The Charter further emphasises that the family encompasses multiple generations living together and supporting one another. Within this framework, the rights and interests of individuals and society are harmonised (Holy See 1983: para. F), and certain essential social and communal dimensions of human rights find their primary expression within the family. In this respect, the Charter reinforces the formulation of the 1948

9 See Article 31(1)-(2) of the 1969 Vienna Convention on the Law of Treaties.

Universal Declaration of Human Rights, according to which 'the family is the natural and fundamental group unit of society and is entitled to protection by society and the State'.[10] The Charter reiterates this idea by affirming that the family and society are bound by a close relationship of mutual complementarity and share responsibility for the protection of the human person and humanity at large (Holy See 1983: para. G).

Consequently, society – and in particular the state and international organisations – has a duty to protect the family through political, economic, social, and legal means (Holy See 1983: para. I). This entails strengthening the unity and stability of the family so that it can fulfil its functions effectively (Holy See 1983: para. I). The Charter observes that, despite the lessons drawn from the experiences of numerous cultures throughout human history confirming the necessity of the family institution (Holy See 1983: para. H), certain laws, socio-economic structures, and public programmes nonetheless neglect or even threaten the rights and values of the family (Holy See 1983: para. J). Particular attention is drawn to families living in poverty, whose ability to fulfil their role with dignity is often compromised (Holy See 1983: para. K).

In pursuit of these objectives, the Charter proclaims the fundamental and inalienable rights of the family, while its initial provisions focus on the related individual rights of the persons constituting the family. Article 1 establishes, as a matter of principle, that everyone has the right freely to choose their 'life situation', whether to start a family or to remain single. Accordingly, every man and woman who has reached the legally required age and possesses the necessary capacity has the right to marry and to establish a family (Holy See 1983: Article 1). This right must be enjoyed without discrimination and may be restricted – temporarily or permanently – only by law, and solely for serious reasons relating to the institution of marriage itself. Even in such cases, the dignity and fundamental rights of the persons concerned must be respected [Holy See 1983: Article 1(a)].

Persons wishing to marry and to start a family are entitled to expect the state to create moral, educational, social, and economic conditions enabling them to exercise this right with maturity and responsibility [Holy See 1983: Article 1(b)]. Moreover, public authorities are required to recognise the institutional value of marriage [Holy See 1983: Article 1(c)]. As a corollary, the Charter explicitly rejects the legal equivalence of married couples and non-marital partnerships [Holy See 1983: Article 1(c)].

Marriage cannot arise from coercion; it may be concluded only on the basis of the free and full consent of the intending spouses, duly expressed (Holy See 1983: Article 2). While the Charter acknowledges that in certain cultures the family may play a role in guiding the choice of a spouse [Holy See 1983: Article 2(a)], respect for such traditions does not diminish the right of adult children freely to choose their future partner [Holy See 1983: Article 2(a)]. Of particular practical relevance in religiously mixed societies is the Charter's provision that any precondition for marriage requiring one party to renounce their faith or to make a declaration contrary to their convictions

10 Universal Declaration of Human Rights (1948): Art. 16(3).

constitutes a violation of the right to freedom of religion of the prospective spouses [Holy See 1983: Article 2(b)].

Within marriage, man and woman complement one another, enjoy equal dignity, and possess equal rights with respect to marriage [Holy See 1983: Article 2(c)]. The Charter affirms the inalienable right of spouses to start a family and to determine the timing and number of children they will bring into the world. In exercising this right, they are required to take full account of their responsibilities toward each other, their existing children, the family as a whole, and society (Holy See 1983: Article 3). The right to family planning is framed by a just hierarchy of values and an 'objective moral order' (Holy See 1983: Article 3), which excludes recourse to contraception, sterilisation, and abortion (Holy See 1983: Article 3). In practical terms, this moral order confines marital sexual relations to openness toward procreation and imposes a corresponding sense of responsibility on the spouses, while simultaneously excluding any state intervention that would run counter to these principles.

The Charter further declares that any attempt by public authorities or private organisations to restrict the spouses' freedom of decision in these matters constitutes a grave violation of human dignity and justice [Holy See 1983: Article 3(a)]. Accordingly, in international relations it is impermissible to condition development assistance on the acceptance of contraception, abortion, or sterilisation [Holy See 1983: Article 3(b)]. Families are entitled to receive support from society in bringing children into the world and raising them. Special protection must be afforded to large families, which are entitled to the benefits of non-discrimination and may legitimately claim appropriate assistance from the state [Holy See 1983: Article 3(b)].

Beyond family rights as such, the Charter also proclaims the fundamental rights of children and parents within the family. Consistent with its well-known position reflected in the context of the Convention on the Rights of the Child, the Charter regards conception as the beginning of human life and considers abortion a direct violation of that life [Holy See 1983: Article 4(a)]. As the fetus is thus understood to be a human being, it is entitled not only to the right to life but also to human dignity [Holy See 1983: Article 4(b)]. Consequently, any form of experimentation on or exploitation of the fetus is prohibited.

From a legal standpoint, the Charter divides human life into two stages: childhood and adulthood. Only persons in the latter category possess full decision-making capacity with respect to submitting voluntarily to experiments performed on their bodies. Both the unborn and the born child lack such free will, as their situation is inherently dependent on others. For this reason, no experimentation may be carried out on either the fetus or the born child, even with parental consent. Any genetic intervention not aimed at remedying a disorder infringes the right to bodily integrity and runs counter to the good of the family [Holy See 1983: Article 4(c)]. While therapeutic genetic interventions may be permissible where they seek to correct physical abnormalities, the modification of inherited characteristics – such as altering the sex of the unborn child – is incompatible with respect for bodily integrity.

The special relationship between mother and child is protected by provisions granting both the child, before and after birth, and the mother during the same period, a right to special protection [Holy See 1983: Article 4(d)]. More generally, every child is entitled to the protection of society, irrespective of whether they are born within or outside marriage [Holy See 1983: Article 4(e)]. Orphans and children deprived of parental support are entitled to particular care [Holy See 1983: Article 4(f)]. States are obliged to facilitate adoption by suitable families, while ensuring that adoption laws respect the natural rights of parents [Holy See 1983: Article 4(f)]. Children with disabilities have a right to an environment – both within the family and in educational institutions – that enables their human development [Holy See 1983: Article 4(g)].

Central importance is attached to parents' educational rights. The Charter recognises parents as the primary and principal educators of their children by virtue of having given them life. This right is original, primary, and inalienable (Holy See 1983: Article 5), existing independently of the state and incapable of being transferred to other individuals or political communities. Parents therefore have the right to educate their children in accordance with their moral and religious convictions and cultural traditions, with due regard for the dignity and best interests of the child. Society is obliged to assist parents in fulfilling this educational mission [Holy See 1983: Article 5(a)].

Parents are free to choose the schools their children attend and the manner of their upbringing in accordance with their conscience. Public funds must be allocated in such a way as to enable parents genuinely to exercise this choice without incurring unjust burdens [Holy See 1983: Article 5(b)]. The Charter further affirms that sexual education is a fundamental right of parents, whether it takes place within the home or in educational institutions [Holy See 1983: Article 5(c)]. Consequently, any sexual education provided in schools must occur under the close supervision of parents, and no such instruction may be offered without prior consultation and agreement with them [Holy See 1983: Article 5(c)]. Excluding all forms of religious education from the public school system likewise constitutes a violation of parents' educational rights [Holy See 1983: Article 5(d)]. Parents are also entitled to participate in the formulation and implementation of educational policy and in the governance of schools [Holy See 1983: Article 5(e)], through appropriate forms of cooperation between parents, teachers, and educational institutions [Holy See 1983: Article 5(e)].

Families additionally have the right to protect young children from harmful media influences, a task in which the state bears primary responsibility for providing assistance [Holy See 1983: Article 5(f)].

The Charter affirms the family's right to exist and to develop as a family. Public authorities are therefore obliged to respect and promote the family's dignity, legitimate autonomy, intimacy, integrity, stability, and unity [Holy See 1983: Article 6(a)]. Divorce is described as an attack on the institutions of marriage and the family [Holy See 1983: Article 6(b)], and the state is accordingly cautioned against promoting it. While recognising both the nuclear family and more traditional extended family forms without

prioritising either, the Charter emphasises the role of the latter in fostering solidarity and mutual assistance among family members [Holy See 1983: Article 6(c)].

The family has the right to religious life in both private and public spheres. In the private sphere, parents are responsible for organising the family's religious life (Holy See 1983: Article 7). In the public sphere, families are entitled to profess and manifest their faith without discrimination, to participate in worship and religious gatherings (Holy See 1983: Article 7), and to ensure that religious spaces – particularly places of worship and community centres – are family-friendly. Families also enjoy participatory rights, including the right to form associations with other families and institutions for the protection of their rights and interests [Holy See 1983: Article 8(a)]. Through these activities, families contribute to the social and political life of society (Holy See 1983: Article 8).

Families and family associations have the right to participate in the planning and implementation of economic, social, legal, and cultural decisions affecting them, a responsibility that rests primarily with the state [Holy See 1983: Article 8(b)] through the development of appropriate family policies (Holy See 1983: Article 9). In the economic sphere, this includes ensuring adequate material resources, reducing or eliminating inheritance and transfer taxes among family members [Holy See 1983: Article 9(a)], and securing stable social conditions in cases of death, separation, accident, or illness affecting a family's earning capacity [Holy See 1983: Article 9(b)]. Older family members likewise possess rights, including the right to live within their family or, where this is not possible, in suitable institutions or conditions that allow them to experience old age with dignity and to remain socially active [Holy See 1983: Article 9(c)].

The Charter also protects the rights of family members serving custodial sentences, affirming their right to maintain contact with and receive support from their families [Holy See 1983: Article 9(d)] – an entitlement flowing directly from the principle of family unity. The same principle underpins the right of families to a social and economic order that organises work in a manner compatible with family life, safeguarding family unity, well-being, health, and stability (Holy See 1983: Article 10). Working conditions must also allow families sufficient leisure time (Holy See 1983: Article 10). This objective may be pursued, inter alia, through remuneration levels adequate to establish and sustain a family with dignity.

In this context, the Charter refers to the possibility of introducing a 'family wage', [Holy See 1983: Article 10(a)] calculated not on the basis of individual minimum income but with regard to the needs of a family, for example one with four members. Social benefits such as family allowances or remuneration for a parent's work within the home are likewise emphasised. The family wage should be set at a level that does not compel mothers to seek employment outside the home [Holy See 1983: Article 10(a)]. Correspondingly, domestic work performed by mothers must be recognised and respected as valuable labour benefiting both the family and society [Holy See 1983: Article 10(b)]. Finally, the Charter affirms the family's right to decent housing, understood as accommodation suitable for family life, proportionate to the number of family members, and located in an

environment providing access to essential services necessary for family and community life (Holy See 1983: Article 11).

The 1983 Charter also recognises certain fundamental rights of migrant families. It prohibits discrimination between families composed of migrants, guest workers, or native citizens (Holy See 1983: Article 12), while acknowledging specific rights of migrant families, including respect for their culture and assistance with social integration [Holy See 1983: Article 12(a)]. In the case of guest workers and refugees, the Charter effectively recognises the right to family reunification [Holy See 1983: Article 12(b–c)], entitling them to seek the assistance of public authorities and international organisations for this purpose [Holy See 1983: Article 12(c)].

The Holy See's participation in United Nations Population Conferences

The World Population Conferences have served as periodic 'global fora' of the international community in which states, typically at intervals of several decades, assess and debate the most pressing challenges related to global population trends. Although the United Nations had already organised population-related meetings in Rome in 1954 and in Belgrade in 1965, these early gatherings were attended primarily by scholars and other experts (United Nations s. a.a). The first genuinely intergovernmental World Population Conference took place in Bucharest in 1974 (United Nations s. a.a). The Holy See participated in this conference, having held permanent observer status at the United Nations since 1964.

The Bucharest Conference focused primarily on the phenomenon of population growth in what was then commonly referred to as the 'Third World' and on its anticipated consequences. Throughout the proceedings, the Holy See firmly opposed policies of birth control, particularly the promotion of contraception (Avramov–Cliquet 2016: 95). Pope Paul VI was represented in Bucharest by Cardinal Jean Villot, Secretary of State, who emphasised that '[A]ny population policy must, likewise, guarantee the dignity and stability of the institution of the family by ensuring that the family is provided with the means enabling it to play its true role' (Villot 1974). Consequently, decisions concerning the number of children to be born, he argued, must rest with parents rather than public authorities (Villot 1974).

At the Second World Population Conference, held in Mexico City in 1984, the primary objective was to review the implementation of the Plan of Action (United Nations 1975) adopted in Bucharest (United Nations 1984: paras. 2–16). Although the Holy See took an active part in the conference deliberations, it was unable to support several of the recommendations ultimately adopted. It abstained, for example, from voting on a recommendation prohibiting the settlement of foreign populations in occupied territories, which it regarded as having an overtly anti-Israeli character (United Nations 1984: para. 133). Moreover, it did not endorse recommendations that sought to grant unmarried couples parental rights equivalent to those of married spouses or

that envisaged family planning through means incompatible with biblical teaching (United Nations 1984: paras. 172–175).

Ten years later, the next major intergovernmental conference on population was convened in Cairo. The Holy See likewise participated in the Third World Population Conference in 1994, a milestone event that introduced the concepts of reproductive and sexual health, as well as reproductive rights, into the international policy discourse (United Nations s. a.b). By that time, the global approach to population issues had undergone a significant transformation. Whereas abortion had not previously been considered a legitimate instrument of family planning, the Cairo Conference marked a shift in this regard. Moreover, the family-centred perspective traditionally associated with the Catholic Church – summarised in the notion of 'responsible parenthood' – was increasingly supplanted by a strongly individualistic approach grounded in reproductive health and reproductive rights.

The concept of responsible parenthood presupposes state support for parents and the strengthening of families (John Paul II 1994) so that spouses are genuinely able to make informed and responsible decisions. By contrast, the reproductive rights framework approaches population and family planning primarily from the perspective of women's rights and, as a logical consequence, tends to regard abortion and contraception as permissible. While the Holy See welcomed the fact that population issues were explicitly linked to development at Cairo, it was unable, for these reasons, to support all of the conference's recommendations (Martino 1999). It also condemned the endorsement of so-called 'emergency contraception', on the grounds that its effects may include the termination of pregnancy (Martino 1999).

The Holy See nevertheless considered it important to note that, according to the preamble of the Cairo Programme of Action, the conference did not recognise an international right to abortion. At the same time, it viewed the fact as a warning sign that abortion was mentioned within the chapter devoted to reproductive health and rights. In light of these concerns, the Holy See – following its positions at Bucharest and Mexico City – was unable to give unqualified support to the Cairo Programme of Action and entered reservations with respect to several of its provisions (United Nations 1995: para. 27). It reaffirmed this stance during the 1999 review conference assessing the implementation of the Programme of Action (Martino 1999).

The year 1994 also marked a procedural turning point. Instead of convening World Population Conferences every ten years, the international community decided to conduct five-yearly reviews of the Cairo Programme of Action, which had been adopted for a twenty-year period. These review conferences have since been organised by the United Nations Commission on Population and Development (CPD) and the United Nations Population Fund (UNFPA).

At the major review conference held in 2014, the representative of the Holy See – serving as chargé d'affaires – adopted a notably critical tone. According to Janusz Urbanczyk, developments since 1994 appeared to suggest that so-called reproductive rights had come to eclipse all other considerations, a trajectory that he viewed as inevitably leading toward the liberalisation of abortion. He further argued that the 'zero

draft' of the conference outcome document prepared by the CPD seemed to imply that pregnancy itself was being treated as a form of pathology (Permanent Observer Mission of the Holy See to the United Nations 2014).

At the 2019 Nairobi Summit, organised outside the formal framework of the United Nations to mark the twenty-fifth anniversary of the adoption of the Cairo Programme of Action, the Holy See chose not to be represented (Catholic News Agency 2019). According to the Vatican, this decision was prompted by the content of the preparatory document – drafted with the involvement of UNFPA as well as the Danish and Kenyan governments – which significantly narrowed the scope of the Cairo agenda to issues of reproductive health and rights and comprehensive sexuality education (Catholic News Agency 2019). Notably, parallel to the Nairobi Summit, Kenyan archbishops and bishops organised an alternative event expressing opposition to the direction taken by the official conference (Catholic News Agency 2019).

Finally, in its statement (Permanent Observer Mission of the Holy See to the United Nations 2024) issued on the occasion of the thirtieth anniversary of the Cairo Programme of Action, the Holy See also expressed regret that several important issues had been removed from the draft text of the declaration (United Nations Commission on Population and Development 2024). It further observed that, in its assessment, the positions of the participating States had moved even further away from those prevailing in 1994, and it reiterated the reservation formulated at that time, according to which 'the term gender is understood by the Holy See as grounded in biological sexual identity, that is, the two sexes, male and female' (Holy See 1994).

In lieu of conclusions

Overall, it may be concluded that the Holy See was only able to exert a very limited influence on the relevant processes of norm-creation. Its official positions and the provisions of the 1983 Charter of the Rights of the Family are reflected only faintly in the text of the 1989 Convention on the Rights of the Child, while the Holy See gradually withdrew from active engagement in United Nations conferences on population issues. This development can be explained in part by the growing number of members of the international community – that is, States – which has resulted in increasing international social, religious and ideological heterogeneity, as well as by the progressive secularisation of traditionally Catholic-majority countries and, ultimately, by a broader reconfiguration of prevailing social values.

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Caste and Exclusion: Dalits in Contemporary Pakistan

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This article examines the systemic caste discrimination of Dalits (untouchables) in Pakistan, an overlooked topic even when the country has a constitutional mandate of equality. Based on historical analysis and interviews with Dalit activists, it reveals entrenched barriers in education, healthcare, and political participation. Legislative initiatives, including the Sindh Hindus Marriage Act (2018), are present but fail because they are weakly enforced and institutionally ignored. In contrast to India-centric caste studies, the research provides an innovative angle through the study of caste in the context of Muslim-majority populations, combining religion and minority rights in the discourse. By taking a Dalit-centred approach, it draws attention to the gap between protection given by law and actual experience, advocating for land rights, gender equality, and social inclusion. The research expands human rights and social justice research, suggesting improved legal protections, specific socio-economic policies, and increased Dalit political representation. It calls for an enhanced examination of caste relations in Muslim societies, contending that confronting this exclusion is crucial to getting Pakistan's law on the same page as its ideology of justice and equity. This paper emphasises the imperative of policy change and additional research to close the gap between promise and performance.

Keywords: caste discrimination, Dalits, Pakistan, scheduled castes, minority rights

Introduction

You are free; you are free to go to your temples; you are free to go to your mosques or to any other place of worship in this State of Pakistan. You may belong to any religion or caste or creed that has nothing to do with the business of the State.
Quaid-e-Azam Mohammad Ali Jinnah

The research highlights the historical background of the origin of the caste system, which has impacted countries like India, Nepal, Pakistan, Bangladesh, and Sri Lanka.

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Those who suffer from caste discrimination are often referred to as 'Dalits', a term meaning downtrodden, oppressed, or untouchables. While the oppression faced by Dalits has been extensively studied in some of these countries, there is very little documentation on Dalits in Pakistan, where they are officially recognised as 'Scheduled Castes' (Shah 2007). Pakistan denies the existence of caste-based discrimination, asserting that Islam promotes equality and, therefore, caste discrimination has no place in an Islamic country (IDSN 2008). The Constitution's preamble defines Pakistan as 'a democratic state based on Islamic principles and social justice'. However, Quaid-e-Azam, the founder of Pakistan, explicitly addressed the Hindu caste system, guaranteeing that lower-caste Hindus would have equal rights and status in Pakistani society. In his address to the Constituent Assembly on 11 August 1947, Jinnah invoked 'caste' three times, declaring: 'You may belong to any religion or caste or creed that has nothing to do with the business of the State' (Ahmad s. a.: 403–404). The symbolic embodiment of this commitment was Jogendra Nath Mandal, a Dalit leader whom Jinnah appointed to chair the Assembly's inaugural session and serve as Pakistan's first Minister of Law (Asif 2020). This paper argues that caste-based exclusion in Pakistan operates through three interconnected mechanisms: legal vulnerability, economic, and social stigma. While each manifests differently through blasphemy accusations, bonded labour, forced conversions, and barriers to education and healthcare, they collectively reinforce a system of structural discrimination that persists despite constitutional guarantees of equality. These mechanisms do not operate in isolation: legal vulnerability enables economic exploitation; economic dependence prevents civic participation and resistance to forced conversion; and social stigma justifies continued legal neglect. By examining these intersecting dimensions through the lived experiences of Dalit communities and activist voices, this study reveals how formal legal protections fail to translate into substantive rights when institutional enforcement remains weak and social hierarchies remain deeply embedded.

This research paper aims to examine the complex realities of Dalits in Pakistan, with a focus on the challenges they face and the structural changes required to amplify their voices in the larger narrative of the country (Jillani 2013). As Pakistan became a nation, it developed a constitution and legal measures designed to safeguard the rights of religious minorities, as well as those belonging to marginalised communities (Malik 2002). However, these measures were insufficient to erode the mechanisms of institutionalised discrimination that Dalits continue to experience. Despite efforts to implement legal safeguards, challenges persist, and enforcement remains far from adequate (Mehfooz 2021).

The research provides a comprehensive assessment of the various complex aspects of life as a Dalit in Pakistan. It demonstrates the multiplicity of caste-based prejudices impacting on a range of domains including education, healthcare, mobility, political

engagement, culture, etc. Even preliminary results indicate that Pakistan's frequency and degree of discrimination differ considerably from those in India, where the caste system maintained by the Hindu majority leads to more overt and frequent discrimination. In contrast, Pakistan experiences a different dynamic where inequality against minority communities, including Dalits, is not as intense or frequent. Through key findings and the direct voices of influential figures from the Dalit community, this study seeks to amplify their experiences, providing a platform for their stories to be heard.

The significance of the study

This research addresses a critical gap by focusing on the Dalit community in Pakistan, a group often overlooked in public discourse and policy frameworks. By combining historical context with contemporary analysis, it reveals the systemic nature of caste-based exclusion. The research will contribute to the academic and public policy literature, documenting Dalit activist voices, detailing and recording grassroots efforts, and assessing state-led work. The outcomes of the research are to make policy-makers, civil society actors, and the international human rights community aware of the need for a holistic response that includes proactive and targeted action, with enforceable laws and meaningful representation to uphold the rights and dignity of Dalit in Pakistan.

Research objectives

This research pursues four interconnected objectives: first, to explore historical and contemporary experiences of caste discrimination endured by Dalits in Pakistan; second, to evaluate the efficacy of government policies and laws designed to protect Dalits; third, to highlight the role of Dalit-led activism in advancing social justice; and finally, to elevate the voices and lived experiences of Dalits to inform policy-making and public discourse.

Research questions

To achieve these objectives, this research addresses four central questions. What are the principal socio-economic, political, and legal barriers confronting Dalits in Pakistan? How effective are constitutional protections and the legislative framework in addressing caste-based discrimination? How do Dalit activist movements and community organisations combat marginalisation? And how does caste operate in the lived experiences of Dalits within an overwhelmingly Muslim-majority society where caste is often officially denied, yet continues to shape social relations?

Literature review

Historical perspective of casteism

Pre-Partition

The caste system in South Asia traces back over 2,000 years and is deeply embedded in religious and social ideologies, particularly within Hindu scriptures such as the Rigveda and Manusmriti (Sonawani 2017).

The Rigveda, an ancient Hindu text, contains references to social divisions centred around occupations and social roles. It delineates society into four varnas or classes: the *Brahmins* (priests and scholars), *Kshatriyas* (warriors and rulers), *Vaishyas* (merchants and farmers), and *Shudras* (labourers and servants). This early classification based on occupation laid the foundation for the hierarchical structure of society (Johnson–Johnson s. a.).

Those outside this hierarchy, Dalits were referred to as varna-sankara, they are seen as outsiders or beyond the system, considered so inferior that they are considered 'untouchable' and deemed to cause pollution to higher-caste individuals (Ambedkar 1916). The Manusmriti, also known as the Laws of Manu, is another influential text that played a significant role in shaping the caste system.

Arya Samaj, an influential reformist movement, also played a role in shaping Hindu nationalist ideology. The movement aimed to bring back those who converted to other religions (such as Christianity and Islam) back to via Shuddhi (purification) and Sangathan (unity) campaigns, laying ideological groundwork for modern 'ghar wapsi' (home coming) movements (Krishnamurthi–Krishnaswami 2021). However, inherent contradictions are evident in the writings and practices of Hindu nationalist leaders, many of whom belonged to the Brahmin elite. On the one hand, they rejected the caste system as a societal bane, yet on the other hand, they asserted the superiority of the Arya race and emphasised the importance of the caste system for maintaining social structure and Hindu identity (Johnson–Johnson s. a.).

Leaders like Dayananda, the founder of Arya Samaj, and V. D. Savarkar, the father of Hindutva, glorified the historical virtues of the caste system while also calling for a rejection of its hereditary nature. Golwalkar, another influential figure in Hindutva, defended the caste system as essential to the concept of a Hindu nation state, advocating for varna (caste) as a reflection of nature (Sathaye 2015).

This emphasis on Vedic Aryanism and biological racism, similar to European theories of racial superiority, has led to the exclusion and marginalisation of 'untouchable' and lower-caste groups, including Dalits, from the narrative of a glorious Hindu civilisation (Duleep 2012).

Overall, Hindu nationalism has fused caste supremacy with religious exclusivity. This caste system and its implications on the Dalit community remain significant challenges that need to be addressed to move towards a more inclusive and equitable society

(Kishwar 2000). Despite partition and the creation of a Muslim-majority Pakistan, caste hierarchies persisted, adapting to new socio-political realities.

Post-partition

The hierarchical caste system, rooted in Hinduism, has deeply entrenched itself in South Asian societies, affecting even adherents of egalitarian religions like Islam, Sikhism, Christianity, and Buddhism (Mehfooz 2021).

Caste has long been a significant social phenomenon across the Indian subcontinent (Benatar 2019). The All India Scheduled Castes Federation (AISCF), led by Dr. B. R. Ambedkar, sought to secure rights and social justice for the marginalised Dalit communities in British India, which included both present-day India and Pakistan. However, the specific evolution of caste in Pakistan diverged from that of India due to the country's unique historical, political, and cultural context (Raghavan 2020).

In 1944, Mohammad Ali Jinnah pledged that the Muslim League would safeguard Dalit rights, and post-partition, Pakistan's social structure emphasised religion over caste (Gazdar 2007). Though less pervasive than in India, caste-based discrimination endured (Hasan 2009). A notable figure in this narrative is Jogendra Nath Mandal, a Dalit leader who became Pakistan's first Law Minister in 1947, symbolising early inclusion efforts (Baxi et al. 2006). However, rising intolerance in the post-Jinnah era prompted his resignation and migration to India in 1953, leaving Dalits at the bottom of the social hierarchy (Gazdar 2007). Many Dalits remained in Pakistan after partition, facing insecurity during the 1965 and 1971 wars and lacking resources to migrate (Faruqi 2011).

In 1957, the Scheduled Castes (Declaration) Ordinance recognised 40 non-Muslim castes primarily Hindus as Scheduled Castes (Shah 2007). However, this percentage diminishes to one percent when evaluated at the national level (Benatar 2019). Affirmative action followed, including a 6% job quota for Scheduled Castes in provincial departments, reduced to 1% nationally (Benatar 2019). This quota ended in 1998, leaving Dalits without substantial protections (Malik 2002).

Dalits in Pakistan

Demography of Scheduled Caste in Pakistan

In Pakistan, the landscape of caste demography is characterised by a diverse array of approximately 40 distinct castes, with 32 of them being formally designated as scheduled castes under the November 1957 Presidential ordinance. Among these scheduled castes are notable communities such as Meghwars, Bheels, Kolhis, Baghris, Kori, Kuchria, Pasi, Perna, Ramdasi and others (Boivin 2008). This categorisation must be understood within Pakistan's broader socio-religious context. While the country is home to Dalit Muslims, the prevailing belief within Islam asserts the absence of caste hierarchies among Muslims. Consequently, the scheduled castes are predominantly

associated with Hindu communities, reflecting the influence of upper-caste supremacy that has historically constrained lower-caste individuals into the Hindu category, despite indigenous identities (Mehfooz 2021).

Demographically, the Scheduled Castes population has seen significant growth over the years. In 1998, it was estimated at 0.33 million (0.25% of the total population), surging to 0.85 million (0.41%) by 2017, a 157.58% increase (0.52 million individuals) with an average growth rate of 5.11%. Geographically, Sindh recorded a rise from 0.30 million to 0.83 million, while Punjab saw a decline from 0.02 million to 0.01 million, and Khyber Pakhtunkhwa experienced a modest increase from 0.0006 million to 0.0008 million (Aslam et al. 2022).

Digital census 2023 population insights

The 2023 digital census, Pakistan's first fully digital count using tablets and GIS for real-time monitoring, recorded a total population of 240,458,089 (excluding Azad Kashmir and Gilgit- Baltistan). It reported 1,349,487 Scheduled Castes (0.56% of the population), with 1,325,559 in Sindh, indicating a rural concentration (Pakistan Bureau of Statistics 2023). However, activists and academics, such as those cited by the International Dalit Solidarity Network (IDSN), argue that these figures undercount Dalits, potentially numbering millions, due to systemic issues in census methodology that also affected the 2017 count, impacting political representation and resource access (IDSN s. a.). Additionally, the distinction of 'Scheduled Castes' from the broader Hindu community has deepened divisions. While some adopt a Hindu identity to avoid further marginalisation, others emphasise maintaining the distinction to highlight caste-based discrimination (Rufus 2024).

Mechanisms of exclusion

Despite attempts at curbing discrimination and enacting legal protection for minority rights within Pakistan, significant challenges remain. This section analyses Dalit exclusion through three interconnected mechanisms: legal vulnerability, economic marginalisation, and social stigma demonstrating how these dimensions reinforce one another. It is important to note that these issues are predominantly prevalent in rural areas where a significant portion of the population lacks literacy and awareness about human rights, and discriminatory practices are primarily conducted by some segments of the upper-class Hindu population (Sikand 2022; Hasan 2009).

Legal vulnerability

Legal vulnerability refers to the condition in which Dalits lack effective access to legal protection and face heightened exposure to legal persecution. Minority women are particularly vulnerable to false blasphemy accusations, leading to legal persecution and

mob violence. The case of Aasia Bibi illustrates this vulnerability. A Christian woman from Punjab, Aasia Bibi was accused of blasphemy in 2009 after a dispute with Muslim co-workers over drinking water, during which her Christian faith was deemed to have contaminated a shared vessel. She was arrested and sentenced to death in 2010. Her case highlighted the systemic vulnerabilities of religious minorities in Pakistan, especially Dalit Christians, who are frequently subjected to discrimination and false accusations. After years on death row, Pakistan's Supreme Court acquitted her in 2018 on grounds of insufficient evidence, yet she was forced to seek asylum abroad due to continued threats to her life (Iwanek 2018). Aasia Bibi's experience demonstrates how blasphemy laws function as a mechanism of legal vulnerability for Dalit women, intersecting with their economic marginalisation and social stigma to produce compounded exclusion.

The foundation of Pakistan's blasphemy laws dates back to the colonial era of British India, which includes the region now known as Pakistan. These laws were originally introduced to prevent religious violence between Hindus and Muslims. Key provisions established in 1860 include Sections 295, 296, 297, and 298, with Section 295-A added in 1927 to address deliberate insults to religious beliefs. Under General Zia-ul-Haq's military regime (1977–1988), the laws were amended to specifically address blasphemy against Islam, including:

- Section 295-B (1982): Punishing the desecration of the Quran
- Section 295-C (1986): Criminalising any defilement of the Prophet Muhammad's name, carrying the death penalty
- Section 298-A (1980): Criminalising defiling the names of the Prophet Muhammad's family, companions, or caliphs
- Sections 298-B and 298-C (1984): Specifically targeting the Ahmadiyya community, restricting their religious practices and self-identification as Muslims

Today, the most commonly invoked provisions include Sections 295-A, 295-B, 295-C, and 298-A. These laws allow police to arrest alleged offenders without a warrant and can initiate investigations without prior approval from a magistrate's court, making these laws susceptible to misuse (The Constitution of the Islamic Republic of Pakistan 2012).

The connection to economic marginalisation is direct: families who cannot rely on legal protection have no recourse when trapped in exploitative labour arrangements or when facing forced conversion.

Economic marginalisation

Economic marginalisation traps Dalits in conditions of material deprivation and exploitative labour relations, reinforcing both legal vulnerability and social stigma. Sanitation work in Pakistan is predominantly carried out by the descendants of individuals from the Hindu Dalit caste, many of whom have converted to Christianity generations ago. Today, approximately 80% of sanitation workers in Pakistan are Dalit Christians, despite representing only 2% of the general population (Zahid 2026).

This occupational segregation carries severe physical and psychological costs. Tasleem Mai, a 50-year-old sanitary worker who has supported her family of 12 for twenty-five years, took on this work due to the lack of other employment opportunities. Despite significant risks of infection and accidents, she seldom receives protective equipment, compensation for overtime, or medical check-ups. As she reflects: 'We are always forced to compromise our dignity and personal well-being to do the job. We play an essential role in society, yet we are not compensated for overtime or leave.' Her experience is representative of broader patterns: a socio-legal study on sanitation workers in Lahore found that 91% of female sanitation workers experienced stress or mental illness, compared to 74% of their male counterparts (Ali–Azeem 2025). Economic dependence creates conditions where Dalits cannot resist forced conversion or report abuses, knowing they lack both economic alternatives and confidence in legal protection.

Social stigma and civic exclusion

Social stigma encompasses the cultural devaluation of Dalit identity that manifests in exclusion from education, healthcare, political participation, and protection against forced conversion. Pakistan has the world's second highest number of out-of-school children, with 22.8 million children aged 5–16 not attending schools, representing 44% of this age group. Disparities are stark, with 5 million children aged 5–9 out of school and 11.4 million adolescents aged 10–14 lacking education. In Sindh, 52% of the poorest children (58% of them girls) are out of school, and in Balochistan, 78% of girls are not enrolled (Faran–Zaidi 2021). Vulnerable groups, including women, religious minorities, and bonded labourers, make up most of the illiterate population in these areas. According to estimates, less than 10% of Dalit girls have access to formal education (IDSN s. a.).

Caste-based exclusion from the health sector in Pakistan is not routinely documented, though there have been different instances reported related to upper-caste Hindus in rural areas. The right to healthcare as a Dalit can be impacted by caste discrimination amongst certain health practitioners. Likewise, these biases could ultimately result in poorer quality medical care and increased health disparities (Hasan 2009). The ability to participate in political structures across an elected government is little to no as Dalits are often discouraged from running for political positions and exercising their voting rights fully. Coercion may force them to vote for specific candidates, thereby compromising their democratic agency (Shah 2007).

In Pakistan, forced conversion is one of the most severe forms of discrimination faced by religious minorities, including Hindus and Christians, especially women and girls. Forced conversions are often disguised as 'marriage of choice', where abducted girls are coerced into a new religious identity (Islam) under the false claim that the conversion is voluntary. However, these young girls are subjected to severe physical and psychological abuse to ensure their compliance (Rafiq 2022). According to the Human Rights Commission of Pakistan (HRCP), at least 136 cases of forced conversions were documented in 2023, the majority of whom were Hindu women and girls from the Sindh province.

Public protests have been organised by Dalit communities to address forced conversions. In March 2023, Dalit groups, including women and children from Scheduled Caste communities, held a rally in Karachi, starting at the Press Club and moving to the Sindh Assembly, demanding stronger protection for minority rights and action on forced conversions (Ali 2023). In April 2023, another protest took place in Diplo town, Tharparkar, following the alleged forced conversion of Hindu woman Summan Lohana. Reports indicated that Lohana was coerced into converting to Islam after a relationship with Sajjad Mehar, with protesters accusing controversial religious figures from Ghotki of facilitating such practices (Human Rights Commission of Pakistan 2025).

Religious hatred against other communities in Pakistan represents a disturbing and pervasive issue that significantly impacts their lives and well-being. As a minority community within a predominantly Muslim country, minority communities often face discrimination and prejudice on religious grounds. This discrimination manifests in various forms, including verbal abuse and social exclusion. Dalits are subjected to derogatory slurs and offensive language, which further marginalise them and reinforce their status as outsiders within their own society (USCIRF 2011).

Dalit community activism – Voices of local activists

In the pursuit of a deeper understanding of the often overlooked Dalit community in Pakistan, this review paper takes a pioneering step by engaging directly with the voices that resonate from within. Anchoring its authenticity in primary data, the paper draws upon a series of insightful interviews conducted with influential figures from the Dalit community. These interviews not only provide a unique perspective on the challenges and triumphs of the Dalit's lives, but also underscore the significance of real-life experiences in validating the research findings. The following are the voices from within the community.

Radha Bheel – CEO of Radha organisation and also the Chairperson of Dalit Sujag Tehreek, Pakistan

Radha discussed the treatment of Dalits across South Asia, noting that it is consistent in India, Pakistan, and Bangladesh. She argued that this discrimination is not solely social but also embedded in Hindu religious structures, where Dalits are considered Shudra by birth. Radha emphasised that humanity should take precedence over religious labels, urging for the recognition of Dalits as equal human beings.

In Pakistan, untouchability, while still present in Hindu communities, is less prominent due to the Muslim-majority population. Dalits represent around 95% of Pakistan's Hindu population, with Brahmins making up only about 5%. Although Dalits generally do not experience widespread violence, they face significant economic challenges that limit their political participation. Political parties often allocate seats to wealthier Hindus, marginalising economically disadvantaged Dalits.

Radha highlighted the importance of political representation for Dalits to allow them to make decisions that affect their lives. She also advocated for land rights, citing the vulnerability of Dalit lands to dispossession, particularly in disputes with landowners. Despite the efforts of provincial governments, legal organisations, and human rights institutions, she noted that the challenges faced by Dalits persist due to their marginalised status.

Pushpa Kumari – Human Rights and Dalit Activist, Member, Sindh Human Rights Commission, Pakistan

Pushpa Kumari identified the concurring problems faced by Dalit women as a result of gender, caste, and social position. She laid greater stress on patriarchal cultural norms and political leadership in creating asymmetrical relations of power within South Asia. Kumari criticised the marginal effectiveness of Dalit movements in Pakistan, especially Sindh, as a result of inadequate social backing, intra-party fissures, and ineffective lobbying. She emphasised the importance of grassroot actions to increase awareness, educate policy, and offer legal assistance.

Kumari mentioned there are no certain policies for the rights of Dalit women in Pakistan compared to other South Asian nations where similar programmes have been implemented. Without such policies, the protection of Dalit women's rights at the grassroots level is constrained. Though schemes such as the 6% quota for Scheduled Caste women were introduced, they did not guarantee equal employment opportunities because there was no representation in policy and budget meetings. Kumari supported more effective policy implementation, especially in Sindh. She also addressed gender equality and representation on political agendas. While other countries have done

a lot to advance the rights of women and their inclusion, efforts in Pakistan have been insufficient. Policies such as the 33% quota of seats for women must be addressed on a greater scale with marginalised groups as well. Kumari's words reflected the current situation and stressed the importance of policy-making on an inclusive platform.

Pirbhu Satyani – Human Rights Advocate and Regional Expert, IDSN, Pakistan

In an interview with Pirbhu Satyani, he discussed the major challenges faced by Dalits in Pakistan, drawing from his own experiences growing up in a lower-middle-class family in Mithi. Despite early setbacks such as a forced marriage and working as a labourer, his passion for education, supported by his mother, drove him forward. His involvement in various organisations highlighted the neglect of the most backward Scheduled Castes concerning their fundamental rights.

Satyani identified caste discrimination as a sensitive issue, particularly in Punjab, with little public discourse. His research on bonded labour in Sindh revealed social apathy towards caste discrimination (KHAN et al., 2009). However, he expressed hope for increased awareness and collective action both locally and internationally.

His work with UN mechanisms, including participation in the universal periodic review and involvement with the UN Stakeholders reporting team, showcased Pakistan's engagement in global human rights efforts. Satyani highlighted progress in Sindh, citing legislative changes such as the Sindh Child Marriage Restraint Act.

He also discussed the prevalence of religious hate, which disproportionately affects marginalised communities, including religious minorities and Scheduled Castes. He suggested that education reform and greater media representation could help address these issues. Satyani urged the UN to focus on conventions regarding human rights, child rights, and women's rights, advocating for international support for countries affected by caste discrimination.

Regarding census and representation, Satyani called for accurate enumeration of sub-castes and the citizenship status of the SC population. He emphasised the importance of campaigns focused on policy change through census data, noting the significance of political representation for SC members in Parliament as a turning point for social and political empowerment.

Dr. Sono Khangarani – CEO at Thardeep Microfinance Foundation, Pakistan

Dr. Sono Khangarani concentrated more on the historical context of Dalits in Pakistan, dating back to when Jogendra Nath Mandal held the prestigious position of the first minister of law of the newly established state. Dr. Khangarani appreciated positive developments by Pakistan towards safeguarding the rights of religious minorities as enshrined within the constitution, and ensuring freedom of association and expression to them. He appreciated the latest legislation making family laws disallow underage marriages among minority groups, thereby excluding forced conversions and weddings.

Besides, he emphasised the importance of quotas for reserved seats in public services and the allocation of 5% of the institutional employment seats exclusively for minorities, including Dalits. Dr. Khangarani put emphasis on the access of minorities to quality education and employment opportunities.

As compared to the Indian context, he refers to the rise of Hindutva ideology as a great threat to the minorities and indicates the Bharatiya Janata Party (BJP)'s strategic adoption of Dalit rituals for political reasons. He demands notice to what Christians, Muslims, and Dalits have faced by way of atrocities, a great deal composed of grave violations of human rights, and to the shrinking room in the broader South Asian context for minorities and particularly those outside the majoritarian view. In proposals, Dr. Khangarani calls for the reinstatement of the 6% quota for scheduled castes in Pakistan – a policy that has been in place since 1956. He also calls for land rights for landless Dalit minorities and proposes legislation that would enable individuals to vote double, considering both their minority and Dalit status on equal terms.

Initiatives of the Pakistan Government

Federal legislation for minorities

Protection of minorities has always remained a part of Pakistan's constitution. From its very beginning, the nation has understood the need to protect the rights of minority groups and has gone out of its way to include and protect them. These efforts have been made in order to prevent any type of discrimination against minority communities and to create a society where all citizens, irrespective of their religious or ethnic affiliation, can contribute to the social, political, and economic life of the country to their full potential (Wilson et al. 2020).

The following are the constitutional provisions concerning freedom of religion or belief and minority rights in Pakistan (Minority Rights Group International s. a.). It reflects Jinnah's founding vision of caste-based equality. Notably, the word 'caste' appears explicitly in three articles (22, 26, and 27) as a protected category alongside race, religion, and sex demonstrating that Pakistan's founders recognised caste-based discrimination as requiring specific constitutional remedy. These provisions address the three mechanisms of exclusion identified in this paper: Article 36 and 25 establish legal protection for minorities; Articles 20, 21, 22, and 26 guarantee religious freedom and equal access to education and public spaces, addressing social stigma; and Article 27 prohibits caste-based discrimination in government employment, addressing economic marginalisation.

Article 36
'The state shall safeguard the legitimate rights and interests of minorities, including their due representation in the Federal and Provincial services.'

Article 20 – Subject to law, public order and morality
a) All citizens should possess the right to profess, practise, and spread their religion.
b) Every religious group and sect shall have the right to build, govern, and administer its religious institutions.

Article 21 – Safeguard against taxation for purposes of any particular religion
No individual should be obligated to pay any specific tax whose revenues are designated for the promotion or sustenance of a religion other than their own.

Article 22 – Safeguards as to educational institutions in respect of religion, etc.
1. No individual enrolled in any educational institution will be compelled to receive any instruction, participate in any religious ceremony, or attend religious worship if such teaching, ceremony, or worship pertains to a faith other than their own.

2. No community will face discrimination regarding the provision of tax exemptions or concessions for any religious organisation.
3. Subject to law:
    a) No religious community or denomination shall be obstructed from delivering religious instruction to its pupils in any educational institution entirely maintained by that community or denomination; and
    b) No citizen shall be denied admission to any educational institution funded by public revenues solely on the basis of race, religion, caste, or place of birth.
4. This Article does not exclude any public authority from implementing measures for the development of any socially or educationally disadvantaged segment of persons.

Article 25 – Equality of citizens

1. All citizens are equal under the law and are entitled to equal legal protection.
2. Discrimination based on sex is prohibited.
3. This Article does not exclude the state from enacting particular measures for the protection of women and children.

Article 26 – Non-discrimination in respect of access to public places

1. Access to venues of public enjoyment or recreation not designated solely for religious reasons must not discriminate against any person based solely on race, religion, caste, sex, domicile, or place of birth.
2. Clause (1) must not be interpreted as prohibiting the state from enacting particular provisions for women and children.

Article 27(1) – Safeguard against discrimination in services

1. No citizen of Pakistan, otherwise eligible for appointment to the service of Pakistan, will be discriminated against in their appointment to any such service merely on the basis of race, religion, caste, sex, domicile, or place of birth.

However, the existence of these comprehensive protections paradoxically illustrates this paper's central argument about legal vulnerability. The gap between constitutional guarantee and lived reality remains vast: despite Article 27's prohibition of caste-based discrimination in services, Dalits remain concentrated in sanitation work; despite Article 22's educational protections, less than 10% of Dalit girls access formal education; and despite Article 36's mandate for representation, Dalits remain politically marginalised. This reveals that legal vulnerability operates not through the absence of protective laws but through their non-enforcement enabling economic marginalisation and reinforcing social stigma.

Legislative measures by the government of Sindh

The majority of the Hindu population (primarily Dalits) in Pakistan lives in rural Sindh. This serves to highlight the significance of legislations and initiatives of the Government of Sindh towards addressing the problems of minorities. The Sindh Department of Minority Affairs has a variety of specific objectives: to safeguard the rights of minority community members, ensure access to legal provisions, advance their well-being through decent living, health, education, and employment opportunities, and protect minorities from direct or indirect discrimination in employment, accommodation, or access to public services (Government of Sindh 2020).

The Sindh Hindus Marriage (Amended) Act 2018

The Sindh Hindus Marriage (Amended) Act of 2018 is a significant legislative achievement for the protection of the rights and interests of the Hindu community in Sindh. The primary purpose of this act is to introduce a formal and organised process for the registration of Hindu marriages and to rectify the issue of early-age marriages within the Hindu community. Implementation rules were notified on 27 November 2019, providing instructions and protocols for registration of Hindu marriages (Sindh Act No. VIII of 2018; Government of Sindh Notification No. SO(J-II)HD/2-46/2016, 2019).

Critical analysis: While the Act represents progress in formalising Hindu marriages, its effectiveness in protecting Dalit women remains limited. Marriage registration provides legal documentation that could theoretically protect against forced conversions disguised as marriages, a key concern identified in the 'Mechanisms of exclusion' subsection. However, activists note that rural Dalit communities often lack awareness of the registration process or access to registration offices. Furthermore, the Act does not address the underlying economic marginalisation that makes Dalit families vulnerable to coerced marriages in the first place. The legislation addresses symptoms of exclusion without tackling the interconnected mechanisms that produce it.

The Sindh Protection of Communal Properties of Minorities Act 2013

Sindh Protection of Communal Properties of Minorities Act of 2013 aims to safeguard properties owned collectively by minority communities for communal use. The act envisions a Provincial Commission for Minorities to issue No Objection Certificates (NOCs) for sale, purchase, and transfer of communal properties. Provincial Commission regulations were developed in 2019 after consulting with the Law Department, though proposed rules remain pending with the Non-Muslims Welfare Committee for approval before presentation to the Provincial Cabinet (Sindh Act No. XVII of 2013; Jacob 2021).

This legislation directly addresses the issue of economic marginalisation by protecting communal property – a particularly important issue in light of activist Radha Bheel's statement that Dalit lands are at risk of appropriation. However, six years after the Act

was enacted, the implementing regulations have still not been approved, illustrating the gap between legislative intent and implementation that characterises Pakistan's approach to minority protection. Without a functioning Provincial Commission, the Act provides paper protection without practical remedy, reinforcing the pattern of legal vulnerability identified throughout this paper.

The Criminal Law (Protection of Minorities) Bill – 2015

The Criminal Law (Protection of Minorities) Bill 2015 attempts to address forced conversions affecting minority communities in Sindh. The bill establishes freedom of religion and acknowledges freedom of marriage and choice, emphasising individual autonomy in religion and relationships. It aims to create an environment of tolerance and harmonious coexistence among different communities. As of 2024, the bill remains in the legislative pipeline and has not been enacted into law (Human Rights Commission of Pakistan 2025). That this bill has remained pending for nearly a decade despite documented cases of forced conversion involving Dalit girls – as was mentioned in subsection 'Mechanisms of exclusion' – exemplifies the political obstacles to protecting marginalised minorities. The bill's limbo status reveals that legal vulnerability is not merely about enforcement failures but also about the political will to enact protective legislation in the first place. While 136 cases of forced conversion were documented in 2023 alone (Human Rights Commission of Pakistan 2024), the legislative remedy remains perpetually 'in the pipeline'. This pattern confirms that addressing Dalit exclusion requires not only stronger laws but also political representation to ensure such laws are actually passed and implemented.

Conclusion

This study has illustrated the persistent caste-based discrimination of Dalits in Pakistan, a long-standing issue that undermines the country's founding vision of equality and justice, as defined by Quaid-e-Azam Mohammad Ali Jinnah. In spite of constitutional protections and legislative attempts at safeguarding minority rights, Dalits – who are formally categorised as Scheduled Castes – continue to live in a society characterised by systemic socio-economic exclusion, restricted access to healthcare and education, political disenfranchisement, and exposure to forced conversion and accusations of blasphemy. These problems, while less apparent than in India, are firmly rooted in long-standing caste relations and socio-cultural patterns, especially in rural Sindh and southern Punjab, where most of Pakistan's Dalits live.

The analytical framework developed in this paper reveals that Dalit exclusion operates not through isolated forms of discrimination but through three interconnected mechanisms. Legal vulnerability manifested in weak enforcement and weaponisation of blasphemy laws enables economic exploitation. Economic marginalisation through bonded labour and occupational segregation traps Dalits in dependence that prevents

resistance. Social stigma expressed through educational exclusion and political disenfranchisement justifies both legal neglect and economic discrimination. Breaking this cycle requires simultaneous action across all three dimensions.

The research shows the fact that as much as federal and provincial efforts like the Sindh Hindus Marriage Act (2018) and the Criminal Law (Protection of Minorities) Bill (2015) indicate a willingness to protect marginalised groups, their efficacy is weakened by poor enforcement and lack of representation. The 2023 Digital Census of 1.35 million estimated Scheduled Caste population is a step towards increased visibility, though activists believe that it undercounts the actual extent of the Dalit population and restricts access to resources as well as voice in politics. Testimonies by Dalit activists such as Radha Bheel and Pushpa Kumari present the strength of grassroots movements that advocate for land rights, gender justice, and political participation in the face of economic inequalities and social opposition.

This research adds to justice and inclusion scholarship by foregrounding the lived experience of Pakistan's Dalits and revealing the mismatch between constitutionalism and daily reality. In order to bridge this lacuna, more effective enforcement of the current laws, socio-economic policies targeted at specific issues, and better political representation are the need of the hour. In the future, research may assess the success of government policies or examine how caste, gender, and religion intersect to form Dalit experiences. It is only through such consistent efforts that Pakistan can live up to Jinnah's dream of a country where creed and caste do not determine the rights and dignity of its citizens.

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Ethnic Entrepreneurship in Athens: Integration through Culture and Cuisine

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Focusing on three case studies, this study analyses the relationship between ethnic entrepreneurship and cultural integration in Athens, Greece. Drawing on qualitative research conducted during the "Migration in the Margins of Europe" Winter School, it examines how migrant-owned restaurants serve as economic growth, cultural expression, and community building spaces. This paper highlights how Athens-based Nigerian, Georgian, and Turkish entrepreneurs navigate regulatory barriers, financial limitations, and social integration while establishing food businesses that reflect their cultural identities. Through in-depth interviews and comparative analysis, the study identifies common patterns and contrasts in funding access, customer demographics, and engagement with host communities. While ethnic entrepreneurship fosters a degree of socio-economic integration, gaps in public policy persist, especially concerning access to information, support networks, and banking. The article concludes with policy recommendations aimed at strengthening institutional support for ethnic entrepreneurs, advocating for more inclusive legal and financial frameworks. This study provides a grounded understanding of how the broader migration-integration nexus in urban Europe can shape ethnic food businesses.

Keywords: ethnic entrepreneurship, cultural diplomacy, urban migration, socio-economic integration

Introduction

In contemporary cities, everyday economic practices increasingly reflect the presence of culturally diverse communities, shaped significantly by the movement of people. Among the most visible expressions of this diversity is ethnic entrepreneurship, which refers to business activities rooted in the cultural identities and social networks of migrant groups (Ibrahim–Galt 2011). These businesses are not only shaped by cultural traditions and community ties, but also by the structural conditions of the host society. As Kloosterman and Rath (2001) argue, immigrant entrepreneurs operate within a framework of mixed

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embeddedness, combining cultural resources with the opportunities and constraints of the institutional and economic environment. This dual positioning allows such businesses to function as cultural bridges, fostering interaction between minority and majority populations and contributing to social cohesion.

Migration has become a defining feature of contemporary European urban life, shaping not only demographic patterns but also the economic and cultural landscapes of cities (Glick Schiller – Çağlar 2009; Vertovec 2007). Food entrepreneurship is a powerful medium for economic inclusion and cultural expression among the various avenues through which migrants participate in local economies. In Athens, a city marked by socio-economic challenges and rising diversity, migrant-owned food businesses offer a lens through which integration, resilience, and development can be studied (Balampanidis 2017).

This article contributes to the field of ethnic studies by examining the function of migrant-owned food businesses in Athens as spaces of cultural negotiation, identity performance, and socio-economic integration. Through the lens of ethnic entrepreneurship, this study explores how migrants mobilise cultural heritage and community networks to navigate urban life, thereby shaping and being shaped by the host society.

The research was conducted as part of the Winter School "Migration in the Margins of Europe", organised by the Netherlands Institute at Athens, and employs a qualitative case study approach centred on three restaurants owned by migrants from Nigeria, Georgia, and Türkiye.

Research questions

The study is guided by the following questions:

1. What strategies do migrant food entrepreneurs in Athens use to leverage cultural capital and agency to integrate into Greek society?
2. How does embeddedness in Greek social, economic, and institutional networks shape the business development trajectories of migrant-owned food businesses?
3. What policy measures can reduce bureaucratic and financial barriers and strengthen institutional support for migrant food entrepreneurs, improving their integration and business development outcomes?

In addressing these questions, the article situates ethnic entrepreneurship within the broader discourse of urban integration, economic development, social networks, and cultural hybridity.

Theoretical framework

Ethnic entrepreneurship refers to business activities undertaken by migrants or ethnic minorities that are shaped by their cultural background, social networks, and migration

experiences (Light–Gold 2000; Ram et al. 2017). These ventures often emerge in response to structural labour market constraints and serve as economic survival and cultural expression mechanisms.

> Food-related ethnic businesses have gained attention as sites of identity negotiation, community building, and intercultural exchange in the context of urban Europe (Rath 2007; Kloosterman–Rath 2001). Such enterprises are not only economic units but also cultural spaces where migrants perform and adapt their identities in relation to both diaspora and host communities.

This study draws on the concept of cultural capital (Bourdieu 1986) to understand how migrant entrepreneurs leverage culinary traditions and symbolic resources to establish legitimacy and visibility. It also engages with theories of social embeddedness (Granovetter 1985) and mixed embeddedness (Kloosterman et al. 1999), which highlight the role of personal networks and institutional contexts in shaping entrepreneurial trajectories.

Recent scholarship emphasises the importance of urban space in shaping migrant experiences (Glick Schiller – Çağlar 2009), suggesting that cities are not passive backdrops but active arenas of integration and exclusion. In Athens, a city marked by economic precarity and increasing diversity, ethnic food businesses offer a lens through which to examine the intersection of migration, entrepreneurship, and urban transformation.

By situating this research within ethnic studies, the article contributes to ongoing debates about migrant agency, cultural hybridity, and entrepreneurship's role in shaping inclusive urban futures.

Methodology

This study adopts a qualitative case study approach rooted in ethnic studies and explores how migrant entrepreneurs in Athens use food businesses as platforms for cultural expression and social integration. Qualitative methods are particularly suited to this inquiry because they allow for a deep exploration of lived experiences, identity construction, and community dynamics. As Creswell and Poth (2018) argue, qualitative inquiry is especially effective when the research seeks to understand complex social phenomena from the perspective of those directly involved.

In the context of ethnic entrepreneurship, qualitative approaches have proven valuable in capturing the multifaceted relationship between migrant identity, business practices, and urban integration. Baycan-Levent and Nijkamp (2009) highlight how such methods enable researchers to uncover the socio-cultural dimensions of migrant entrepreneurship, particularly in European cities where diversity and economic participation intersect.

Research context and data collection

The research was conducted during the "Migration in the Margins of Europe" Winter School organised by the Netherlands Institute at Athens. Fieldwork was conducted over a two-week period in January 2025. Three migrant-owned restaurants representing Nigerian, Georgian, and Turkish backgrounds were selected as case studies. The selection criteria were as follows: 1. ethnic culinary representation; 2. accessibility and willingness of owners to participate; and 3. relevance to themes of integration and entrepreneurship.

Primary data were collected through semi-structured interviews with restaurant owners (one per case), each lasting between 45 and 60 minutes. The interview guide consisted of 22 questions organised into five thematic areas: 1. Personal and Background: migration history, settlement decisions, and motivations for entrepreneurship; 2. Business Concept: operational challenges and future goals; 3. Migrant Experience: barriers to business establishment, experiences of discrimination, and support networks; 4. Community Connection and Integration: cultural exchange through food, language barriers, and local engagement; and 5. Policy: perspectives on regulations and recommendations for improving support for migrant business owners.

The guide was peer-reviewed during the Winter School programme to ensure clarity, relevance, and alignment with the research objectives and during the fieldwork non-participant observation was conducted considering restaurant environment, customer interactions, and cultural elements (e.g. menu, decor, and language use).

Before data collection, all participants were fully informed about the purpose of the research. Given the potential vulnerability of migrant participants, interviews were conducted with sensitivity to their personal and migration experiences, avoiding questions that could cause distress. Efforts were made to respect linguistic and cultural preferences, with interviews conducted in English or Greek according to participant choice.

Case studies

Case 1: Nigerian restaurant

The owner of the Nigerian restaurant arrived in Greece in 2018 while pregnant, crossing into the country through Türkiye and spending her first period in the Moria refugee camp. Her early experiences in Greece were shaped by vulnerability and unstable employment. She worked mainly as a cleaner in positions where she was often under unfair labour conditions, sometimes not paid, and frequently discriminated against because she did not speak Greek. Despite these difficulties, she gradually built connections within the Nigerian diaspora in Athens. A close friend who worked as an accountant became especially important, guiding her toward the possibility of entrepreneurship. As she later reflected,

> 'I always had a business spirit; I was thinking about location, numbers, and how to make it work.'

Her first entrepreneurial attempt was a Nigerian mini-market. Although it met an existing community need, she eventually had to close it due to repeated problems with importation and customs procedures, which made the business financially unsustainable. In 2022 she invested her personal savings and received support from friends and members of the Nigerian community to open a restaurant. The name of the establishment follows a cultural tradition in Nigeria in which a woman may be called by her child's name after becoming a mother, giving the restaurant a symbolic connection to identity and belonging.

The restaurant quickly became more than a place to eat. She prepares traditional Nigerian dishes using ingredients that she imports specifically to maintain authenticity, and the space functions as a site of cultural affirmation for migrants from Nigeria and other African countries. Her first customers came mainly through personal networks, but social media later expanded her visibility and attracted Greek customers who were curious about her cuisine and the mixture of flavours and cultural elements it offered. She described the evolution of the place by saying, 'My restaurant has become a meeting point for the Nigerian community in Athens', highlighting the way it developed into a social and cultural hub.

Running the restaurant also meant navigating the complexities of Greek bureaucracy. Access to banking services, municipal regulations and licensing procedures presented constant challenges, and she relied heavily on advice and informal support from members of her community. Her first location was in a residential area with many migrant residents, which initially felt familiar and accessible. However, the building lacked proper infrastructure for a restaurant, and tensions with neighbours soon emerged. Complaints about noise, smells escalated, and in several instances, neighbours threatened to call the police, making her fear for clients who might not have secure documentation. Concerned about exposing her customers to risk, she decided to relocate.

The new location provided both better infrastructure and a safer, more inclusive environment. It allowed her to serve Greek and migrant communities without fear of conflict, and it supported her broader vision for the restaurant as a cultural space where music, dance and art can be shared. Her entrepreneurial trajectory reflects a complex process of navigating institutional barriers, mobilising community networks and transforming personal migration experiences into a form of social and cultural presence within the urban landscape of Athens.

Case 2: Georgian restaurant

The Georgian restaurant is run by a migrant woman who moved to Greece in 2008 to join her husband. The migration process was emotionally difficult for her, as she had to leave her children in Georgia and wait until they were adults before they could join her in Greece. Professionally she was trained as a nurse, and her first job in Greece was also in the health sector. When her daughter turned eighteen and finally moved to Greece, she encouraged her mother to open a Georgian restaurant, believing it would help her reconnect with her culture and build a more stable livelihood.

To finance the business, she sold her home in Georgia and secured a bank loan in Greece. The restaurant first operated as a small delivery service, but over time it developed into a well-established dining space. She always emphasises that she is not a professional chef, explaining, 'I just cook the way I did for my children', a phrase that reflects the intimate and family-based approach behind her cuisine. Although she uses mostly Greek products, she imports specific ingredients from Georgia to maintain authenticity in her dishes, reinforcing the restaurant's role as a place of cultural representation and continuity.

Her clientele has grown increasingly diverse. She explains that 'Georgians fill the place, but Greeks and tourists are always curious to try our food, they usually find us on Google', highlighting both the importance of the diaspora community and the visibility gained through digital platforms. She describes the atmosphere with warmth, saying, 'I think of my restaurant as a place with happy, smiley people and warmth in their hearts', suggesting that the space functions not only as a business but as an emotional and cultural meeting point.

Her early challenges included navigating in the Greek banking system, adapting to bureaucratic procedures and dealing with language barriers. Family support and client loyalty played a crucial role in helping her manage these difficulties and sustain the business. Over the years the restaurant has grown substantially. What started as a small delivery operation has expanded into a large establishment with two dining rooms and ongoing plans for further expansion. The success of the restaurant is reflected in its current workforce, which includes twenty-five employees from both the Georgian diaspora and the local Greek population. Her entrepreneurial path shows how personal migration experiences, family encouragement and community engagement can converge to create successful and culturally meaningful businesses within the Greek urban environment.

Case 3: Turkish restaurant

The Turkish restaurant is run by a man who migrated to Greece in 2002 as a political refugee. He holds a degree in finance, but upon arrival he began working in jobs that were available to him at the time, including delivery for a courier service and later three years in construction. He also offered private Turkish language tutoring to supplement his income. Although he has lived in Greece for more than twenty years, he recalls two incidents in which he experienced discrimination. The first occurred in 2002 during an encounter with the police that he describes as a misunderstanding but still distressing. The second took place while he was working in construction, where his supervisors repeatedly made derogatory comments about his origin, his name and his status as a refugee in Greece.

His restaurant initially started as a cooperative project but eventually transformed into a sole proprietorship. He self-funded the venture, relying on his own savings and the support of close friends, as he received very limited institutional assistance. Over time the restaurant evolved into a space that reflects both his personal background and

the multicultural influences present in his daily life. The cuisine blends Turkish, Arabic, Armenian and Greek elements, a fusion that mirrors the diverse histories of the region and the communities he interacts with. For him, food is more than a business; it is a political and social practice. As he explained: 'Food can only unite people; democracy is about sharing all opinions equally, even when we disagree.'

The clientele is diverse and includes migrants, politically engaged locals and people who appreciate the cultural and culinary mix offered by the restaurant. It has become a place where discussions unfold naturally, not only about food but also about politics, migration and social life in Greece. The space functions as both a gathering point and a site of exchange, reflecting the owner's commitment to inclusivity and dialogue.

Despite obstacles, his approach to integration emphasises democratic participation, solidarity and a belief in the social role of shared spaces. His restaurant embodies this philosophy, serving as a setting where different communities can interact, where cultural boundaries become fluid and where political conversations are welcomed rather than avoided. In this sense, his business represents not only an economic activity but also an ongoing effort to cultivate inclusion and understanding within the urban environment of Athens.

Comparative analysis

This study applies a structured analytical framework grounded in ethnic studies and urban migration literature to enable a meaningful comparison across the three case studies. The framework draws on the concept of mixed embeddedness (Kloosterman et al. 1999), emphasising the interplay among individual agency, social networks, and institutional contexts in shaping migrant entrepreneurship.

To support this comparative approach, transcripts and field notes were analysed using thematic coding. The coding process was guided by key concepts from the theoretical framework, including mixed embeddedness, cultural capital, and social networks. Themes were refined iteratively to ensure alignment with the research questions and theoretical constructs.

The following analytical dimensions were used to compare cases: 1. Migration background: How migration trajectories and legal conditions influence entrepreneurial opportunities; 2. Business formation and access to capital: Sources of funding, financial strategies, and institutional support; 3. Cultural representation and identity: How food and space are used to express ethnic identity and engage with cultural heritage; 4. Community engagement and clientele: Interactions with diaspora communities, local residents, and the broader urban society; 5. Institutional challenges and integration strategies: Bureaucratic barriers, language issues, and adaptation mechanisms.

This framework allows for both horizontal comparison (across cases) and vertical analysis (within each case), revealing how diverse factors shape ethnic entrepreneurship in the urban environment of Athens (Table 1).

Table 1: Comparative case study analysis: Thematic patterns

Analytical dimension	Nigerian restaurant	Georgian restaurant	Turkish restaurant
Migration background	Refugee, irregular entry, Moria camp	Family reunification, regular resident	Political refugee, long-term settlement
Legal status	Regularised through asylum	Regular residency	Refugee status
Business formation	Personal savings, diaspora support	Property sale, bank loan	Cooperative turned sole proprietorship
Access to capital	Informal networks	Formal banking	Self-funded, minimal support
Cultural representation	Nigerian cuisine, imported ingredients	Georgian cuisine, hybrid ingredients	Turkish–Arabic–Armenian–Greek fusion
Clientele	African diaspora, some Greeks	Locals and tourists	Mixed, politically engaged
Community engagement	Informal support networks	Family-based, social interaction	Cultural events, political dialogue
Institutional challenges	Bureaucracy, banking, licensing	Language, financial risk	Racism, lack of support
Integration strategies	Cultural authenticity, informal ties	Language learning, client loyalty	Inclusion through activism and cultural fusion

Source: compiled by the author based on case study data

All three cases underscore the role of ethnic food businesses in fostering migrant resilience and community engagement. However, they also reveal varied levels of integration, access to funding, and societal reception. The Nigerian entrepreneur relied on diaspora networks and private funding, while the Georgian owner accessed formal banking support. Language barriers and bureaucratic obstacles are common challenges in the three case studies, while food serves as a unifying element across cultural lines.

Another important aspect that emerged during the research, although gender was not a primary focus of the study, is the role of women migrant entrepreneurs. Two of the three businesses examined in the case studies were founded and led by migrant women, a phenomenon that aligns with a growing frame of research on gendered pathways into entrepreneurship. While the analysis centres primarily on migration, identity and institutional barriers, it became relevant to consider how gender intersects with these dimensions. The experiences of the women entrepreneurs highlight specific challenges in relation to market access, integration and the broader expectations placed on them as women, migrants and business owners. At the same time, gender played a significant role in their motivations for entrepreneurship. In both cases, their decision to create a business was strongly connected to providing better opportunities for their

children and gaining greater flexibility to balance family life with income generation. These elements illustrate the importance of recognising gendered dynamics even within research frameworks where gender is not the explicit analytical focus.

Discussion

This study addressed three central research questions: 1. What strategies do migrant food entrepreneurs in Athens use to leverage cultural capital and agency to integrate into Greek society? 2. How does embeddedness in Greek social, economic, and institutional networks shape the business development trajectories of migrant-owned food businesses? 3. What policy measures can reduce bureaucratic and financial barriers and strengthen institutional support for migrant food entrepreneurs, improving their integration and business development outcomes?

Ethnic entrepreneurship and integration

Ethnic entrepreneurship emerged as a key pathway for migrants' integration into urban Athens. Although none of the three entrepreneurs interviewed were professional chefs, they turned to cooking and business creation as a response to employment challenges. Their ventures not only provided economic opportunities but also platforms for cultural expression and community engagement. Through their restaurants, they shared traditions, built connections within their cultural networks, and interacted with diverse customer groups. This exposure encouraged them to improve their Greek language skills and facilitated contact with various stakeholders, including diaspora communities, civil society organisations, suppliers, and host society members. These interactions contributed to the development of support networks and enhanced their social integration.

These findings echo Lazaridis and Koumandraki's (2003) observation that Greek ethnic entrepreneurs often operate within a mosaic of informal and formal activities, using their businesses as platforms for both survival and cultural expression. Moreover, the diversity of the selected cases reflects the heterogeneous landscape of ethnic entrepreneurship in Athens, as described by Balampanidis (2017), where entrepreneurs navigate within a range of different motivations, migration pathways, and socioeconomic conditions.

Barriers and enablers in business trajectories

Access to funding was identified as a major factor influencing business development. None of the entrepreneurs received institutional or governmental financial support. Instead, they relied on personal savings, informal networks, and community resources. For instance, despite being located in strategic urban areas, the Nigerian and Turkish restaurants were financed through personal and community support and operated in modest spaces. In contrast, the Georgian restaurant secured a bank loan, allowing it

to establish itself in a larger venue within a tourist-oriented district, which positively impacted its visibility and growth.

The complexity of bureaucratic procedures and language-related challenges were also significant barriers to the study. Navigating the legal and regulatory environment in a non-native language was difficult for all participants. As Hatziprokopiou (2008) noted, the institutional framework in Greece presents significant challenges for migrant entrepreneurs, particularly in navigating complex legal and bureaucratic systems. In the absence of formal support, entrepreneurs rely heavily on social capital (Portes 1998), mobilising personal networks to access resources and overcome structural barriers. These findings are consistent with Piperopoulos (2010), who highlighted the limited access to formal financial mechanisms among Greek businesses belonging to ethnic minority groups.

Policy recommendations and broader implications

The interviews also revealed policy recommendations aligned with the third research question. Participants emphasised the need to simplify administrative procedures for business registration and to develop financial instruments tailored to migrant entrepreneurs. These suggestions highlight the importance of inclusive policy frameworks that recognise the potential of migrant entrepreneurship as a driver of integration and economic development.

Based on comparative insights and the findings of this study, the following policy recommendations are proposed to support ethnic entrepreneurship in Greece, starting with simplifying registration procedures and documentation requirements for ethnic entrepreneurs to reduce bureaucratic barriers (Hatziprokopiou 2008; Van Heelsum 2012). Furthermore, the need to increase awareness and accessibility of EU and national funding opportunities, such as the Asylum, Migration and Integration Fund (AMIF) and the European Social Fund Plus (European Commission 2023). In addition, strengthen municipal support networks and integration centres by incorporating business training and advisory services tailored to migrant needs (Rath et al. 2011). Finally, foster partnerships between financial institutions and migrant communities to facilitate access to banking and credit mechanisms (International Rescue Committee 2018; Van Heelsum 2010).

While this research focused on the urban context of Athens, comparisons with previous studies underscore the broader relevance of entrepreneurship and economic innovation as pathways for migrant integration. Entrepreneurship enables migrants to demonstrate their potential as active members of society, contributing positively to cultural exchange, social cohesion, and local economies. These findings align with research conducted in other European urban settings (Rath et al. 2011; Van Heelsum 2012), which emphasise the nexus between migration and entrepreneurship in shaping integration processes. They also reinforce the importance of supportive policies at both local and national levels to foster entrepreneurial practices among migrant communities.

Sample and case selection

The study was based on three in-depth case studies of migrant entrepreneurs operating restaurants in Athens. The selection of participants was guided by a mapping process described in the methodology section and aimed to capture diversity across several dimensions: cultural background, migration routes and pathways, motivations for entrepreneurship, and socioeconomic status. This approach ensured representation of different regions of origin and experiences, allowing for a nuanced understanding of ethnic entrepreneurship. Despite their differences, the entrepreneurs shared common challenges and strategies, illustrating both the diversity and convergence of migrant entrepreneurial experiences.

Limitations

While this study provides valuable insights into the experiences of ethnic entrepreneurs in Athens, several limitations must be acknowledged.

First, the research was conducted over a two-week period, which constrained the depth and breadth of data collection. Due to time limitations and logistical challenges, only three businesses were able to participate in the study. Although the selected cases were diverse in terms of cultural background, migration pathways, and business models, the small sample size limits the generalisability of the findings.

Second, language barriers posed a challenge during the interview process. While efforts were made to ensure mutual understanding, some nuances may have been lost or misinterpreted due to the use of non-native languages by both the researcher and participants. This may have affected the richness of the data and the accuracy of certain interpretations.

Third, the study focused primarily on the perspectives of migrant entrepreneurs themselves. Future research would benefit from incorporating the views of other key stakeholders who influence the success and integration of ethnic businesses. These include customers, local and national authorities, policymakers, and financial institutions. Understanding the interactions between entrepreneurs and these actors could provide a more comprehensive picture of the ecosystem surrounding ethnic entrepreneurship and its role in migrant integration.

Despite these limitations, the study offers a meaningful contribution to the understanding of migrant entrepreneurship in Greece and lays the groundwork for further research in this field.

Conclusion

Ethnic entrepreneurs in the food industry in Athens are more than economic ventures, they are spaces of resilience, cultural dialogue, and social integration. Despite facing structural barriers, the entrepreneurs in this study demonstrate significant agency in navigating the Greek socio-economic environment.

These narratives reflect broader trajectories of integration, where entrepreneurship becomes a vehicle not only for survival but for meaningful participation in urban life. The restaurants and food businesses they build are more than service points; they are cultural spaces, often serving as bridges between migrant communities and the broader Greek society. However, the persistence of legal, financial, and linguistic barriers highlights the need for more inclusive and supportive policies.

Policymakers and civil society actors must recognise the value of ethnic and culturally based businesses not only for economic development but also for the enrichment of urban multicultural life. A supportive institutional framework that is inclusive and accessible is essential for ensuring that ethnic entrepreneurship continues to thrive and contribute meaningfully to the social fabric of European cities like Athens.

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Unsettling Universality: Decoloniality and Anti-Racism in Human Rights Education

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This paper examines the convergence of decolonial theory and anti-racist praxis within contemporary human rights discourses, focusing particularly on educational contexts and minority rights frameworks. Through critical engagement with recent discourses on decolonising curricula in higher education, this analysis interrogates the scrutiny to which the ostensibly universal edifice of human rights has been subjected, revealing its entrenchment within colonial epistemologies and racial stratifications. The paper also explores how meaningful advancement of minority rights necessitates fundamental epistemic transformation rather than superficial inclusion within existing institutional structures.

Two theoretical developments frame the analysis: an emerging strand of scholarship proposing anti-colonisation as a distinct move beyond decolonisation, and the growing integration of intersectionality with decolonial frameworks. Together, these signal a field grappling seriously with the gap between theoretical ambition and institutional practice. Decolonial approaches carry genuine transformative potential, but that potential is routinely absorbed and neutralised by institutional diversity agendas that adopt decolonial language while leaving colonial power relations intact.

This paper underscores the imperative of synthesising decolonial and anti-racist modalities to foster authentically equitable human rights, particularly within educational spheres that shape subsequent generations' understanding of justice and human dignity.

Keywords: human rights education, decoloniality, anti-racism, epistemic justice, minority rights, UNESCO, educational policy

Introduction

Human rights discourses, as they crystallised in the post-World War II era, carry a founding contradiction. They profess universal commitment to human dignity and liberty, yet they were forged within the same colonial order they claim to repudiate (Mutua 2001). This contradiction illuminates what Aníbal Quijano

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termed the 'coloniality of power' – enduring structures of domination that outlast formal decolonisation and continue shaping global relations through epistemological, cultural, and institutional mechanisms.

The historiographical context of anti-racism within the United Nations framework proves essential for understanding these tensions. Following 1945, the atrocities of Nazism compelled UNESCO's nascent anti-racism endeavours, exemplified by the 1950 Statement on Race, which sought to demystify biological racism through scientific discourse. As decolonisation movements proliferated across Africa and Asia, human rights architectures struggled to accommodate Indigenous and minority assertions against residual colonial vestiges embedded within supposedly universal frameworks. Contemporary movements, from Black Lives Matter to Indigenous advocacy networks, continue exposing these contradictions, with decolonial intellectuals increasingly asserting that human rights frequently function as an apparatus of neocolonial hegemony rather than genuine emancipation.

Confronting these complexities requires acknowledging the epistemological violence inherent in hegemonic human rights narratives. As Frantz Fanon argued in *The Wretched of the Earth* (1965) colonialism effects the dehumanisation of the subjugated, rendering their rights provisional upon assimilation into the coloniser's worldview. This underscores the necessity of anti-racist decoloniality: a trajectory that repositions subaltern perspectives and deconstructs racialised asymmetries of power. In this vein, education emerges as a crucial site for what Paulo Freire (1970: 79) termed 'conscientization', wherein learners dialectically interrogate oppression to articulate liberatory rights demands that transcend colonial impositions.

The Universal Declaration of Human Rights (UDHR), adopted in 1948 in the midst of active decolonisation struggles, has faced persistent criticism for encoding Western liberal individualism as universal, at the expense of the collective rights and relational ontologies central to many non-Western traditions. The question this paper takes up is not the validity of such critiques, but what it would actually mean to reconceive human rights frameworks through decolonial and anti-racist lenses, particularly in education, where these frameworks shape what justice is understood to mean for subsequent generations.

Looking to contemporary human rights education, it is easily discernible that this is confronting an unprecedented epistemological crisis. International frameworks have become more attentive to cultural diversity and Indigenous rights, but the underlying architecture remains organised around colonial epistemologies that treat Western knowledge as universal and everything else as supplementary. This tension manifests most sharply in educational contexts, where the promise of universal human rights encounters the reality of 'epistemic violence' – a concept that extends beyond Gayatri Spivak's (1988: 280) original formulation to encompass the systematic devaluation of non-Western intellectual traditions within supposedly inclusive pedagogical frameworks. Recent scholarship has significantly expanded the understanding of epistemic violence, for example Kather (2026: 48) develops it as a connection point between neoliberalism

and fascism, while Schützle et al. (2024: 45) provide interdisciplinary analysis framing epistemic violence along decolonial concepts of coloniality of power, knowledge, and being. These developments represent significant theoretical advancement, demonstrating how ostensibly progressive human rights education initiatives often reproduce colonial power relations through their methodological assumptions and institutional structures.

Decoloniality is not simply the political end of colonial rule. As Aníbal Quijano (2000: 533) argued, modernity and coloniality are two sides of the same structure, and the racial hierarchies that gave colonialism its logic did not dissolve when formal empire ended. What remains – in institutions, curricula, and epistemic norms – is the 'coloniality of power'. This is why decoloniality has moved from theoretical provocation to active policy agenda across educational settings but heightened visibility has brought a familiar problem: the more decoloniality is taken up institutionally, the more it risks being absorbed into progressive diversity initiatives that maintain colonial hierarchies while speaking the language of transformation (Shahjahan et al. 2022: 103).

Anti-racism constitutes an active praxis aimed at dismantling these hierarchies, understanding them not as episodic aberrations but as constitutive elements interwoven with capitalism, patriarchy, and imperialism (Smith–Lander 2023a: 28). Within human rights discourse, anti-racism necessitates acknowledgment of racism's subversion of universality, particularly for disenfranchised constituencies whose narratives are systematically effaced and pathologised.

The evolution of decolonial theory and anti-racism reflects growing sophistication in understanding relationships between knowledge production and colonial power relations. Whereas earlier scholarship often focused on recovering suppressed knowledge systems, later developments emphasise fundamental transformation of the epistemological foundations upon which modern educational institutions rest (Ndlovu-Gatsheni 2018). This shift becomes apparent in the distinction increasingly drawn between decolonisation and anti-colonisation.

Theoretical frameworks: From decolonisation to anti-colonisation

Anti-colonisation, as theorised by George J. S. Dei and Alessia Cacciavillani (2024: 209), positions itself as a more radical alternative to decolonisation efforts that may inadvertently legitimise colonial institutional structures through reform attempts. While decolonisation often seeks to diversify existing curricula or include marginalised voices within established pedagogical frameworks, anti-colonisation insists upon the impossibility of achieving genuine justice through such measures. This perspective draws upon Indigenous spiritual ontologies and healing literacies that fundamentally reject the secular, individualistic assumptions underlying Western educational institutions.

This turn toward anti-colonisation also reflects a sharpening critique of Walter Mignolo's concept of 'epistemic delinking' – the idea that decolonial transformation requires a clean break from Western epistemologies. Temin (2025: 139) argues that this framing distorts and flattens anticolonial traditions by privileging the epistemic at the

expense of material and political analysis. Zembylas (2025: 2) makes a related warning: delinking, precisely because of its abstraction, can be bent toward ethno-essentialist and authoritarian ends. What these critiques open up is a live debate within decolonial theory about whether genuine transformation means constructing separate knowledge systems, or whether it means engaging critically with dominant epistemologies while refusing to cede ground to them.

Global South epistemologies and the challenge to universalism

Understanding the limitations of approaches focusing exclusively on challenging Western colonialism while ignoring domestic forms of epistemic violence requires confronting multiple overlapping systems of domination. Leon Moosavi's (2020: 341) analysis of the 'decolonial bandwagon' demonstrates how decolonisation efforts in the Global North risk replicating the very coloniality they seek to dismantle when scholars fail to engage critically with their own practice. His framework identifies six key limitations: first and foremost, Northerncentrism – the tendency of Global North decolonial scholarship to marginalise precisely the theorists from the Global South whose work it claims to champion; and beyond this, the tendencies to reduce decolonisation to a simple task, to essentialise and appropriate the Global South, to overlook the multifaceted nature of marginalisation within academia, to produce nativism, and to remain tokenistic. Together these produce what Moosavi calls 'decolonisation without decolonising'.

African scholarship offers sophisticated critiques of universalist approaches to decolonisation. Sabelo J. Ndlovu-Gatsheni's (2018: 234) concept of 'epistemic freedom' emphasises developing autonomous intellectual traditions that neither reject Western knowledge entirely, nor accept it uncritically. This approach recognises that contemporary African intellectuals necessarily work within hybrid epistemological frameworks while maintaining commitment to decolonial transformation. His work develops a tripartite structure for epistemic freedom: the ability to choose epistemic endeavours, means to pursue them, and meaningful participation in epistemic communities.

The concept of 'defiant scholarship', emerging from African academic networks through Patricia Daley and Amber Murrey (2022: 156), represents another significant development. Unlike approaches seeking legitimation within existing academic frameworks, defiant scholarship explicitly refuses justification according to colonial epistemological criteria. This refusal extends beyond content to encompass methodological and institutional dimensions, challenging not only what knowledge is produced but how knowledge production is organised and evaluated.

Contemporary debates: Epistemic justice and its implementation

Recent work on epistemic justice has moved well beyond Miranda Fricker's (2007: 1) foundational distinction between testimonial and hermeneutical injustice. Through engagement with decolonial scholarship, the concept has been extended to include

what Cummings et al. (2023: 1965) call 'epistemic injustice' – the systematic exclusion of marginalised groups not just from being heard, but from the processes of knowledge production itself.

The 'epistemic core' framework developed by Maria Balarin and Lizzi O. Milligan through the JustEd Project research across Nepal, Peru, and Uganda provides concrete insights into operationalising epistemic justice (Balarin–Milligan 2024: 125). Their identification of three crucial dimensions – grounding learning in experience and place, providing broad epistemic resources, and promoting rich pedagogies enabling critical participation – offers practical guidance for implementing decolonial approaches. However, this framework also reveals tensions between universal principles and contextual specificity that continue challenging decolonial theory.

Caroline Kerfoot and Basirat O. Bello-Nonjengele's (2023: 462) research on multilingual epistemic justice demonstrates how seemingly progressive educational policies can perpetuate epistemic injustices through implementation. Their analysis of translanguaging practices in South African schools reveals that while such practices may improve educational access, they often fail to challenge fundamental hierarchies between languages and knowledge systems. Achieving linguistic epistemic justice requires not merely accommodating multilingualism but transforming institutional practices that systematically privilege particular languages and knowledge systems.

Implementation challenges and institutional resistance

The translation from theory to practice is where decolonial ambitions most visibly collide with institutional reality. Godsell et al.'s (2024) research on assessment in South African universities is instructive here: alternative forms – plays, portfolios, reflective essays – enabled students to demonstrate knowledge through diverse criteria, directly challenging the standardisation that colonial educational structures inherited. Yet these same innovations ran into opposition from accreditation bodies and questions about academic rigour. That resistance was not incidental and it reflected precisely the epistemological conflicts that decolonial pedagogy is trying to address.

The British Higher Education context demonstrates how decolonial initiatives often become constrained within what Derrick Bell termed 'interest convergence', whereby racial progress occurs only when converging with dominant institutional interests. Universities across Britain rolled out decolonial initiatives largely responding to Black Lives Matter protests in 2020, primarily because anti-racist work, in that moment, aligned with neoliberal and capitalist interests rather than representing genuine commitment to epistemic justice.

Heather Smith and Vini Lander's (2023a: 28) *Anti-Racism Framework for Initial Teacher Education/Training* is an example of a sustained effort to address these limitations. Their work through the Anti-Racist Teacher Education Network (ARTEN) focuses on moving from absence to action in curriculum development, identifying 'pockets of possibility' for genuine anti-racist transformation (Smith–Lander 2023b: 22). However,

empirical studies indicate that curricular decolonisation across U.K. higher education remains uneven, with limited systematic evaluation of impact, and business schools in particular show minimal evidence of decolonial initiative effectiveness.

The United States presents a similar pattern of visible institutional commitment alongside unresolved questions of depth and durability. The Erikson Institute's anti-racist teacher education programme (https://www.erikson.edu) centres faculty from historically marginalised communities and integrates land education challenging settler colonial narratives. Yet the programme sits within a broader landscape where decolonial teacher education remains institutionally fragmented, with little comparative evidence of whether such faculty-centred models produce measurably different outcomes than structural or curricular interventions. The University of Arizona's Decolonial Pedagogy and Curriculum Inventory (DPCI) – a 92-item tool across 12 constellations designed to evaluate decoloniality in teacher education (Simmons et al. 2020) – attempts to address this evidence gap. But as a self-developed institutional metric, its external validity is untested, and its very existence as an evaluation tool rather than a widespread implementation framework underscores the field's preoccupation with measuring what remains largely unbuilt.

Human rights education: UNESCO frameworks and global policy developments

UNESCO's 2023 Recommendation on Education for Peace, Human Rights and Sustainable Development, adopted by all 194 member states, marks a significant moment in the international policy landscape. The framework explicitly calls for "fostering critical views of and supporting the struggle against colonialism and neo-colonialism in all their forms and manifestations" (UNESCO 2023: para. 24) – language that echoes the 1974 Recommendation it revises, but that now carries renewed urgency within a contemporary decolonial frame and a transformed geopolitical context. Unanimously endorsed, its reaffirmation of this commitment matters; what remains wide, however, is the distance between endorsement and implementation.

That distance is not incidental as academic analysis suggests that UNESCO's broader institutional framework requires more sustained engagement with decolonial thought if it is to address its Eurocentric legacy, one rooted in the organisation's own founding conditions (Becker 2021). The tension is visible even in its more progressive initiatives: while UNESCO increasingly acknowledges Indigenous knowledge systems through its LINKS programme, critics argue that such efforts tend to position non-Western knowledge as supplementary to dominant scientific paradigms rather than genuinely alternative to them. Inclusion, on these terms, does not disturb the epistemological hierarchy, it accommodates difference within it, perpetuating colonial knowledge structures under the sign of openness.

The African Union's declaration of 2024 as the 'Year of Education' demonstrates institutional commitment to educational transformation, framed around the theme

Educate an African Fit for the 21st Century: Building Resilient Education Systems for Increased Access to Inclusive, Lifelong, Quality, and Relevant Learning in Africa (African Union 2024). The initiative is explicitly designed to accelerate the implementation of the Continental Education Strategy for Africa 2016–2025 (CESA 16–25), which prioritises curriculum reform centring African experiences, integration of Indigenous knowledge systems, and development of pan-African educational networks (African Union Commission 2016). However, the gap between such declaratory commitments and systemic implementation remains significant. A 2024 review noted that CESA 16–25 operational plans were not drafted, monitoring data proved insufficient, and comprehensive progress assessment remained impossible (UNESCO IICBA 2024).

Conversely, the OECD faces intensified criticism for its *Learning Compass 2030,* characterised as promoting a neocolonial vision of education that privileges Global North epistemologies at the expense of those of the Global South despite humanitarian rhetoric (Hughson 2024). The *Learning Compass* maintains colonial rationality by positioning Global North knowledge systems as universal ideals, marginalising Global South epistemologies through instrumental knowledge construction and cultural homogenisation via 'high-performing systems' based on Western metrics.

Regional variations and implementation challenges

Regional analysis illustrates significant variations in how international human rights education frameworks are interpreted and implemented across different political and cultural contexts, with particular complexity emerging in postcolonial societies navigating multiple colonial legacies and contemporary geopolitical pressures.

South Asian contexts present particular challenges for decolonial educational frameworks, given the layered relationship between colonial legacies, Indigenous knowledge systems, and entrenched structural inequalities that predate and exceed colonial rule. Jatuporn's (2024) theorisation of 'Asia as method' in decolonial education – developed specifically through a Southeast Asian, Thai-centred lens – offers a productive regional counterpoint to Western-centric decolonial frameworks, demonstrating how scholars from Thailand and the broader ASEAN region are articulating their own epistemic alternatives rather than simply adopting Euro-American decolonial frameworks. In the Indian context specifically, universal aspirations toward democratic and humanist values in education encounter the deep structural violence of caste. Chand's (2025) critical analysis documents the mechanisms plainly – Dalits face reduced access to higher education not through formal exclusion alone but through the daily discriminatory practices of teachers, peers, and administrators that make formal entitlements functionally unreachable.

Linguistic diversity presents additional complexity with India's National Education Policy 2020 emphasising mother tongue instruction "until at least Grade 5, preferably till Grade 8" (Ministry of Education – Government of India 2020). Educational challenges vary dramatically across regions. A nationally representative study using NSO 75th

round data (2017–2018) found that students in rural India have "significantly less chance of accessing early years of education" compared to their urban counterparts, and that urban households spent 256% more on early childhood education than rural households (Choudhury et al. 2023). The same study noted that this rural–urban gap narrows with increased household capacity to pay and higher educational attainment of the household head.

Minority rights and epistemic justice: Contemporary challenges

The relationship between linguistic diversity and epistemic justice has emerged as a crucial site of struggle within human rights education. Recent research on translanguaging and epistemic justice examines English Medium Instruction programmes, revealing epistemic injustices where Grade 6 learners in South Africa demonstrate how multilingual approaches can construct 'new decolonial relations of knowing and being' (Kerfoot – Bello-Nonjengele 2023: 474).

The evolution of 'plurilingual, decolonial digital language learning approaches' represents promising developments for supporting linguistic epistemic justice while engaging contemporary technological possibilities (Galante et al. 2024: 3). However, implementation requires addressing digital divides and technological dependencies that may perpetuate rather than challenge global inequalities.

The struggles of Indigenous communities for educational sovereignty illuminate broader questions about relationships between minority rights and epistemic justice. As Linda Tuhiwai Smith (2021: 67) argues, incorporating Indigenous knowledge into dominant educational systems risks appropriation and distortion if undertaken without Indigenous control over how knowledge is shared and used. This challenges liberal approaches focusing on inclusion rather than self-determination.

Education Northwest (Livingston 2024) has developed frameworks supporting tribes in reclaiming educational sovereignty through community engagement, connecting traditional knowledge to evidence-based practice, and educator support. Case studies with the Nez Perce tribe created distinct instructional strands from traditional pedagogies, demonstrating how educational institutions can be designed according to Indigenous values while providing students credentials recognised by the dominant society.

Religious and cultural minority communities face similar challenges securing recognition for their educational rights and knowledge systems. The European Court of Human Rights recognises parents' rights to ensure that their children's education is in line with their religious and philosophical convictions, but implementation varies significantly across national contexts (Harris et al. 2009: 267). These variations reflect deeper tensions about relationships between minority rights and democratic citizenship continuing to challenge liberal approaches.

To give an example, Roma are widely recognised as Europe's largest marginalised ethnic minority, numbering over 10 million across the continent. Across the European Union, educational exclusion remains severe, with high rates of early school leaving and

limited progression to higher education. In Britain, the disparities are similarly stark: only around 9.1% of Gypsy and Roma pupils achieve grade 5 or above in GCSE English and mathematics compared to over 50% nationally, and just 6.9% progress to higher education by age 19 (Brassington 2022). Decolonial approaches to Roma education emphasise moving beyond deficit models blaming Roma culture for educational underachievement, focusing instead on institutional discrimination and antigypsyism as structural racism requiring systemic solutions. Fernández Ortega's (2021) critical analysis exposes the 'ideology of integration' as perpetuating 'white order' and 'modern civilisatory mission' toward racialised Roma bodies, arguing for genuine decolonial praxis recognising Roma collective memory and challenging epistemological limits of Western historiography.

Critical analysis: Contemporary debates and future directions

Shahjahan et al.'s (2022: 103) review of 207 articles on decolonising curriculum and pedagogy arrives at a conclusion that is both clarifying and uncomfortable. The meanings, realisations, and challenges of decolonial work are irreducibly contextual, with 'political and epistemological consequences'. There is no universal template and this does not mean the project is incoherent – it means that anyone proposing a single model for decolonial implementation across different settings should be treated with scepticism. The political and epistemic specificity of each context is not a problem to be solved, it is the condition under which genuine decolonial work happens.

María Lugones's (2007, 2010) analysis of the colonial/modern gender system has become increasingly central to this conversation. Where intersectionality identifies overlapping oppressions, Lugones insists that gender itself – as a binary, as a category – is a colonial imposition that erased Indigenous gender systems. Nassiri-Ansari et al. (2025) develop this into a framework of decolonial feminist futures that moves beyond Western intersectionality by situating feminist analysis within specific cultural, geopolitical, and historical contexts rather than treating it as universally applicable. This connects directly to the anti-colonisation argument: if the very categories through which we analyse oppression carry colonial freight, then the question of whether genuine transformation is possible within existing institutional frameworks becomes sharper, and more urgent.

Yet contextual specificity alone is not enough. Without some shared principles, decolonial work risks either fragmentation or capture by institutional actors who appropriate decolonial language while protecting colonial power arrangements. Cummings et al. (2025: 3235) point toward one productive response: communities of practice that cross institutional and disciplinary boundaries, building collaborative knowledge production that holds contextual specificity and decolonial commitment together without forcing a false universalism.

Assessment and evaluation represent another crucial tension site between decolonial theory and institutional requirements. While research demonstrates that alternative assessment methods can provide 'epistemic access and epistemic justice', such approaches often face resistance from accreditation bodies and concerns about academic rigour.

These tensions reveal deeper conflicts about legitimate knowledge and appropriate evaluation methods, which require a fundamental transformation of institutional cultures and governance structures.

Digital technologies present decolonial educators with a genuine dilemma. The possibilities are real, for example plurilingual and decolonial digital pedagogies have shown capacity to centre learners' own epistemologies in ways that traditional classrooms often cannot (Galante et al. 2024: 3). But Nothias (2025: 386) tracks how the design of digital platforms encodes Western cultural assumptions and surveillance logics – what he calls 'digital colonialism' – such that the medium can quietly reproduce the hierarchies the pedagogy aims to disrupt.

Future research directions within United Nations discourse and human rights education present significant opportunities for decolonial intervention. The Fifth Phase (2025–2029) of the World Programme for Human Rights Education marks institutional evolution toward recognising 'youth, including children as priority sectors' with thematic focus on human rights and digital technologies, environment and climate change, and gender equality. Crucially, this phase aligns with Sustainable Development Goal (SDG) Target 4.7 on education for sustainable development and cultural diversity, representing recognition of pluralistic educational approaches. However, critical decolonial scholarship reveals implementation gaps between theory and practice, with scholars like Becker (2021) arguing that UN approaches remain embedded in "Eurocentric assumptions and principles which serve as premise for human rights and human rights education", calling for exploring "pluriversal knowledges of human rights" and problematising "the Human of human rights" (Becker 2021: 49). Future research needs to close the gap between theoretical work and the lived conditions of marginalised communities. Community-based, participatory methodologies – ones that place community knowledge and priorities at the centre, not as data, but as the starting point – are essential. Methodological rigour and epistemological humility are not in conflict here and attending seriously to diverse knowledge traditions is part of what good research in this area requires.

Teacher preparation and professional development emerge as crucial sites requiring systematic transformation rather than superficial modification. Teachers cannot be expected to implement HRE effectively without structured training that develops legal knowledge, critical thinking and ethical sensibility. These are capacities that must be deliberately cultivated rather than assumed. Smith and Lander's (2023a: 28) work through the Anti-Racist Teacher Education Network demonstrates promising approaches through their 'pockets of possibility' framework, identifying spaces within teacher education where genuine anti-racist transformation can occur despite institutional constraints.

Conclusion: Toward epistemic justice in human rights education

The debates surveyed in this article point toward a central tension between the sophistication of decolonial and anti-racist theory, and the stubbornness of the institutions that theory is trying to change. This is not merely an implementation problem as it reflects

something more structural – the degree to which educational systems, international frameworks, and minority rights protections have been built from within, and in the service of colonial epistemological orders. The question is not whether we have the right theory. It is whether institutions can be genuinely transformed, or whether they will continue to absorb decolonial critique while protecting their fundamental arrangements.

Scholarship as emerging from the Global South – including Ramón Grosfoguel's (2013) 'epistemic racism/sexism', Nelson Maldonado-Torres's (2025) 'combative decoloniality', Sabelo J. Ndlovu-Gatsheni's (2018) epistemic freedom and decolonisation as 'a politics of life', and Kuan-Hsing Chen's (2010) 'Asia as method', has proven crucial for developing decolonial approaches avoiding both universalist and relativist pitfalls while maintaining social justice commitment. These contributions demonstrate that achieving epistemic justice requires confronting multiple overlapping systems of domination rather than treating colonialism as a sole source of educational inequality.

Policy progress is real but uneven, for instance UNESCO's 2023 Recommendation and the African Union's Year of Education represent genuine institutional movement. Both, however, are being navigated alongside standardisation pressures and efficiency logics that pull in the opposite direction. Naming the advance matters but so does naming what it is up against.

The experiences of Indigenous, Roma, and religious minority communities in this paper point toward the same conclusion, that inclusion is not the same as self-determination. Formal equality provisions have demonstrably not dismantled the mechanisms that reproduce educational exclusion. Roma educational outcomes in Europe and Britain speak for themselves – they are not a legacy problem but an ongoing one, driven by institutional discrimination that formal equality has not reached. Colonial logics do not require colonial-era institutions to function; they operate through contemporary ones.

The critiques of decolonial theory addressed in this paper around essentialisation, appropriation by Global Northern institutions, and the limits of implementation are worth taking seriously rather than deflecting. They sharpen the project but critique can also serve conservative functions, and calls for 'balance' in this context often mean requesting that transformative scholarship tone itself down. That demand should be resisted.

Future research needs to close the gap between theoretical work and the lived conditions of marginalised communities. Community-based, participatory methodologies – ones that place community knowledge and priorities at the centre, not as data, but as the starting point – are essential. Systematic investigation of alternative institutional models, assessment practices, and teacher preparation approaches remains critical for demonstrating what decolonial transformation can look like in practice.

The deepest challenge remains a material one. Epistemic change matters, but it is not sufficient on its own. Who controls educational institutions, and in whose interests they operate, are the structural questions that decolonial and anti-racist approaches must keep in view as its grounding and not as an afterthought to the epistemic argument.

Human rights education can only challenge colonial power relations if it is willing to name them, in institutional and policy contexts as well as theoretical ones.

The path forward requires a sustained commitment to both theory and practice, while we must remain vigilant against those forces that appropriate decolonial rhetoric while preserving colonial power structures. To circle back to a point made earlier in this paper, this demands 'defiant scholarship' (Daley–Murrey 2022: 159) – intellectual work refusing legitimation according to colonial epistemological criteria while building alternative frameworks for knowledge production and distribution. Such scholarship recognises that transforming human rights education cannot occur through reform alone, but requires fundamental reimagining of educational relationships, institutional structures, and societal purposes education serves, particularly within United Nations discourse and minority rights frameworks that must evolve beyond colonial foundations to genuinely serve the communities they purport to protect.

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