

# Rights of the Roma in Germany and France in Contemporary Times

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## Abstract

This paper investigates the integration and rights of the Roma minority in France and Germany, two countries with distinct historical trajectories and policy frameworks concerning national minorities. Drawing on Ager and Strang's theoretical model of integration and grounded in a comparative legal and socio-political analysis, the study evaluates the implementation and effectiveness of the Framework Convention for the Protection of National Minorities (FCNM) and the National Roma Integration Strategies (NRIS) within both contexts. The research highlights systemic disparities in housing, education, healthcare, and employment, compounded by entrenched discrimination and administrative exclusion. Through qualitative analysis of state practices and legal instruments, the study demonstrates that while both countries have adopted EU-aligned frameworks, Germany exhibits a more structured approach through formal recognition and targeted measures. France, by contrast, upholds a republican model that resists ethnic categorisation, thereby limiting tailored policy interventions.

*“Roma politics must be dealt with in relation to general human rights; it must be related to common values and moral codes and must not focus on an exclusively ethnic or national problem. I thus prefer a course of action that doesn't pass by international human rights standards nor their according institutions and organisations.”*

- Nicolae Gheorghe (Intellectual, Activist)

Even though the Roma are arguably the largest ethnic minority group in the EU<sup>104</sup>, the fact remains that they are the victims of systemic abuse as well as marginalisation within their various countries of residence. This history of persecution stems from their very first days of immigration, before brutally reaching its climax in the Second World War. This historical vulnerability of the Roma has led to their acute backwardness in matters of education, housing, health and employment. The recognition of this backwardness along with human rights violations with regard to the integration of the Roma within the EU has led the EU to encourage its Member States like Germany and France to actively promote Roma inclusion. Two prominent tools have been employed for this: first by recognising them as an essential minority cohort through the FCNM and then by paying attention to their development index along parameters like education, housing, health and employment through the EU Framework for NRIS.

## 1.1 Adopting Ager and Strang's Framework

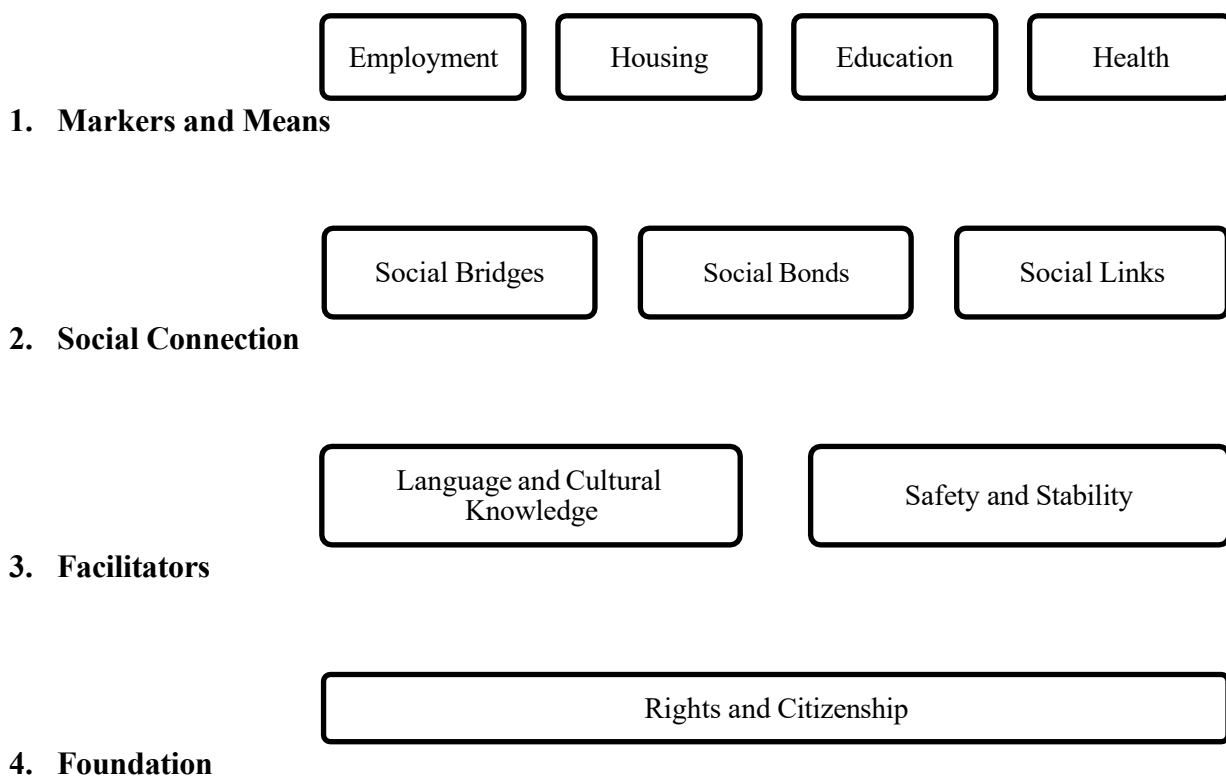
In 1997, the CoE's Report titled 'Measurements and Indicators of Integration' had outlined 200 indicators of integration (Magazzini 2019). Ager and Strang's paper, titled 'Understanding integration: a conceptual framework', has looked at these indicators and coupled these with their fieldwork in refugee camps to come up with a four-level dimension of integration (Ager and Strang 2008). Ager and Strang have argued that Rights and Citizenship constitute the foundation upon which each of the successive

stage is built upon. And that the *final status of employment, housing, education and*

<sup>104</sup> Report on the implementation of National Roma Integration Strategies: combating negative attitudes towards people with Romani background in Europe 2020.

*Health is indicative of whether a priori rights and citizenship privileges are available to minorities* (Ager and Strang 2008). This is the premise used to analyse Germany and France's performance with regard to Roma integration in this chapter. This framework is also aligned with the National Roma Integration Strategy (which includes the parameters of housing, education, employment, healthcare and discrimination). Ager and Strang's Framework can be enumerated as shown in Figure 4.1 below:

**Figure 1.1 Ager and Strang's Framework on Core Domains of Integration**



## 1.2 Development of FCNM and NRIS

In the preceding chapters, a historical analysis was given to facilitate an understanding of the Roma across Europe. Therein and from numerous other instances, it has been shown that anti-Roma sentiment or anti-Gypsyism is widespread across Europe. This anti-Roma sentiment peaked particularly after 1989. In many of the Eastern European countries, the Roma were seen as inimical to public order. Their migration to Western Europe was also resented deeply. Following the catastrophic Yugoslavian War and withdrawal of the NATO forces, ethnic Albanians had unleashed what can only be termed as an ethnic cleansing of the Roma and those whom they perceived as Gypsies (see item 10 in Appendix). This was easily one of the greatest security setbacks faced by the Roma since the Nazi holocaust in the 1930s and 1940s.

With the accedence of various Member States to the European Union in 2004<sup>105</sup>, many Roma were able to travel to other Member States of the EU. Yet the situation continued to remain dire; whether they have been long time national minorities in countries like Germany (and long-time residents in countries like France, which does not acknowledge ethnic minorities) or they had managed to flee precarious and dangerous conditions from Eastern Europe and had come into the Western European nations as refugees and migrants; their living conditions, sense of exclusion and protracted marginalisation was undeniable. And it continues to remain so till date.

The emergence of Roma as an ethnic, minority group that required ‘integration’ gained momentum in the 1990s and the beginning of the 2000s (Race Equality Directive 2000). This was facilitated within a general milieu of protecting the minorities, against the backdrop of several events: the fall of the Berlin Wall (1989), the breaking up of Yugoslavia (1991-1992), along with subsequent trials and tribulations associated with these geopolitical rejigs (Magazzini 2019). As enumerated in Chapter 1, by 1993 the Copenhagen criteria became a yardstick to ensure a Member State’s compliance with norms on minority protection. Over the course of the next decade, iterative steps continued to be taken to respect and protect minorities, leading to the FCNM coming into effect in 1998 (Magazzini 2019). The FCNM is concerned with developing the cultural identity of national minorities, along with safeguarding and preserving their distinctiveness. Thus, minorities in states that have ratified the FCNM are guaranteed legal protection and recourse in terms of basic services, education and language (Magazzini 2019).

Recognising the abject plight of the Roma, the international community and the EU in particular proactively sought to address the wrong. In 2003, 12 European countries got together to promote the socio-economic inclusion of Roma minorities<sup>106</sup>, leading to the start of the Decade for Roma Inclusion (2005-2015) (Magazzini 2019). Brüggemann and Friedman have called this an unparalleled and unprecedented commitment shown by the various Member States to address discrimination faced by the Roma and reduce the difference between the statuses of the Roma from the non-Roma (Brüggemann and

<sup>105</sup> Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, the Slovak Republic, and Slovenia joined the EU on 1<sup>st</sup> May 2004.

<sup>106</sup> “Roma in an Expanding Europe: Challenges for the Future.”

Friedman 2017). Although ostensibly the idea was to eliminate discrimination, a vast majority of the allocated resource was spent to reduce the vulnerable position, poverty and extreme marginalisation faced by the Roma. By 2008<sup>107</sup>, the European Commission had acknowledged that the Roma were still facing considerable challenges and hence the EU hosted a Roma Summit to improve intergovernmental coordination and facilitate coordination amongst EU officials, NGO groups and Roma officials. In 2010, Viviane Reding<sup>108</sup> had remarked on the Roma situation, stating the need and importance of their integration into the different Member States’ societies. She had also remarked that the full and sole responsibility of ensuring public order lay with the Member States themselves and that “*nobody should face expulsion just for being Roma*” (MEMO/10/384).

This led to the adoption of the EU Framework for National Roma Integration Strategies (NRIS) in 2011<sup>109</sup> (and which continued until 2020), which sets out markers needed to assess the integration of minorities and refugees (Magazzini 2019). The strategy<sup>110</sup> calls on the Member States, including any incoming future Member States, to adopt strategies related to education, employment, housing and health concerning the Roma. These strategies were to be either developed for the Roma in particular or

integrated within the broader social inclusion policies of the Member State. However, owing to a lack of concerted efforts and consensus at the supra-national level, it allowed each Member State to formulate its own method to mitigate the discrimination faced by the Roma. In fact, contrary to the model of Ager and Strang, the Framework has failed to identify rights and citizenship as the basic foundation for integration.

Since 2012, an annual report on NRIS implementation is being published. In the years 2012, 2014 and 2016, these reports were supplemented by Member State data as well.

<sup>107</sup> In 2008, Belgium, France and Italy came under criticism for forcibly dismantling Roma camps (Severance 2010).

<sup>108</sup> the Vice-President of the European Commission and EU Commissioner for Justice, Fundamental Rights and Citizenship.

<sup>109</sup> (IP/11/789).

<sup>110</sup> Education: ensuring that all Roma children complete primary school. Employment: cutting the employment gap between Roma and other citizens.

Health: reducing the health gap, for example by cutting child mortality among Roma. Housing: closing the gap in access to housing and public utilities such as water and electricity.

Since 2016, Member States are also submitting annual reports to the Commission (though this report is usually not public). The Fundamental Rights Agency (FRA) also prepares surveys to measure Member States' ground progress by collecting socio-economic data pertaining to the Roma. The Commission also ensures that EU funds are effectively used to support Roma integration and gives guidance to Member States regarding strategy formulation and enforcement of anti-discrimination. At the national level, National Roma Contact Points (NRCP) have been established to engage with Roma stakeholders and deal with issues on education, health, employment and housing.

As of December, 2013<sup>111</sup>, all 28 EU Member States committed themselves to step up economic and social integration of the Roma communities, based on recommendations proposed by the European Commission. In less than six months after the proposal<sup>112</sup>, these were unanimously adopted in a meeting of the ministers. This was a seminal moment: for the first time, there was an EU-level legal instrument created for the inclusion of the Roma. Besides, it also reinforced the EU Framework NRIS of 2011 (Naydenova and Matarazzo 2019). Additionally, the European Council formulated 4 initiatives that were important milestones in seeking inclusivity and integration of the Roma. These were:

- Reaching conclusions on the EU Framework for National Roma Integration Strategies up to 2020<sup>113</sup> (2011).
- Giving recommendations on effective Roma integration measures in the Member States<sup>114</sup> (2003).
- Passing a document on Accelerating the Process of Roma Integration<sup>115</sup> (2016).
- Creating a document<sup>116</sup> to chart out a new framework post-2020, which was prepared after a high-Level Conference in Bucharest. Member States and

<sup>111</sup> Council recommendation on effective Roma integration measures in the Member States.

<sup>112</sup> IP/13/607, MEMO/13/610.

<sup>113</sup> Council conclusions on an EU Framework for National Roma Integration Strategies up to 2020.

<sup>114</sup> Council recommendation on effective Roma integration measures in the Member States.

<sup>115</sup> 15406/16.

<sup>116</sup> 7003/19.

enlargement countries were asked to replicate the delineations listed in the document (2019) (Naydenova and Matarazzo 2019).

### 1.3 Roma and Sinti: Outsiders even after centuries

Despite the Nazi holocaust (see item 11 in Appendix) and systemic extermination campaigns, the Sinti and Roma continue to be the primarily discriminated and excluded group within Germany in contemporary times, sharing the burden along with refugees and foreigners. German authorities for their part have performed the textbook obligation of recognising the genocide; first through the official acknowledgement in 1982 regarding the genocidal horrors in the Nazi era, and subsequently in the form of giving recognition to German Sinti and Roma as a national minority within the Declaration on FCNM in 1997. Despite these overtures, a majority of the Roma and Sintis continue to be marginalised.

Despite the abject tragedy of the holocaust, even returning Roma and Sintis from the concentration camps were treated no better- often subjected to police and administrative harassment (Grunau 2019). Mainstream exclusion and decades of relegation to the margins of society were par for the course for the Roma and the Sintis. Even the incoming Roma, who were coming as migrant workers, faced the same kind of onslaught. Despite generations of residence, they were unable to integrate into the German society or gain citizenship rights.

### 1.4 Legal Status of the Roma in Germany

Currently, there are approximately 70,000- 120,000 Roma living in Germany (Brenner 2018) and can be differentiated into 3 cohorts based on their legal status (Hanesch 2011):

- i) Roma who have lived in Germany for across several generations and have legal status and rights similar to other Germans. Estimates say there are about 70,000 such Roma (Marx 2011).
- ii) Roma who have come from other Member States of the EU and who live on a temporary/permanent basis in Germany. Many originate from countries like Bulgaria and Romania and have the full set of rights available to other European citizens. But only on claiming social assistance will they face restrictive legal action from Germany (especially if it is clear that they pose a significant threat to Germany) (Marx 2011). Currently, there is no enumeration for this cohort.
- iii) Roma who have come as refugees over several decades, and who are officially stateless. In the post-1990s period, a majority of such individuals have come from Yugoslavia (including Kosovo). Legally, this group is regarded as “tolerated refugees”<sup>117</sup>, who live on the brink of the threat of being asked to move back to their country of origin. This group numbers about 50,000 people.

It was this last group that was at the centre of Germany’s Federal government’s efforts to enter into a redemption agreement with Kosovo in 2010. As per the Agreement, about 12,000 Roma from Kosovo would have to leave Germany in the following years (Hanesch 2011). There has been significant public discourse and political churning with regard to the increasing number of Roma refugees in the country, with all-around fears of the Roma staying on permanently in Germany. This fear and atmosphere of negative propaganda reached its climax with the publication of *Deutschland schafft sich ab*<sup>118</sup> in 2010; wherein questions were raised on the politicisation of integration efforts and the migration situation in Germany, both at the national and the local levels (Magazzini 2019).



In 2010, the Berlin state government also started offering 250 Euro per adult and 150 Euro per child as cash incentive if the Roma refugees agrees to voluntarily return to their homelands (Hanesch 2011). The redemption agreement faced significant criticism both at the European and at the national level, with the then European Commissioner for the Interior rebuking the short-sightedness of Germany for endangering the lives of the Roma, by forcing them to return to their strife-torn countries of origin (in this case Kosovo). The then High Commissioner for Human Rights of the United Nations, as well as the then Commissioner for Human Rights of the Council of Europe, seconded this criticism. Nationally, the Catholic Bishops' Conference<sup>119</sup> also critiqued this move (Hanesch 2011).

<sup>117</sup> According to 60(A) of the Asylum Act, Tolerated Stay Permit (or "*Duldung*") is issued for individuals who are theoretically obliged to leave Germany, but their departure is not feasible temporarily. Currently there are about 450,000 such tolerated persons living in Germany.

<sup>118</sup> Written by Thilo Sarrazin, who is a critic of unchecked immigration. His book dealt with the idea that Germany's immigrant Muslim population is reluctant to integrate and tends to rely more on social services than to be productive.

<sup>119</sup> Committee for Migration of the Conference of the Catholic Bishops' Conference.

As per the Parliamentary Assembly's Recommendation 1203 (1993) on Gypsies in Europe, it was stressed that Gypsies needed special protection and that systemic discrimination and prejudice existed in several Member States of the CoE. ECRI had stated in its report on Germany (2000) that members of the Roma and Sinti community faced "*serious social disadvantages and are confronted with prejudice and discrimination*". Even in 2002, Special Rapporteur Csaba Tabajdi<sup>120</sup> found that Roma and Sintis were still being discriminated against in every walk of life. Although the Council stated that the Roma were "double minorities"- in that they were ethnic minorities in the Member States while also being minorities in terms of being socially disadvantaged groups of the society- it was noted that Member States were still not regarding the Roma as ethnic or national minority groups, thereby preventing the Roma from enjoying the full extent of their rights. This was also limiting the full extent of their participation in public life. Tabajdi's findings pointed out that while the Roma and Sinti were officially given recognition as national minorities in 1995 itself, they did not possess any special legal status separate from the other Germans.

In the eyes of many Roma and Sinti activists<sup>121</sup>, Germany's instituted measures to protect the status of the Roma and Sintis as national minorities are not adequate to uplift them from social ghettoization and ostracisation in the form of anti-Gypsyism<sup>122</sup>. This kind of anti-Gypsyism is nothing but a relic of the Nazi era exclusionary mindset. Whether one compares the comparative living standards, poor housing and sanitation scenarios, or the segregation faced by Sintis and Roma in schools- it is clear that the ground reality of this kind of racism is very different from the official version of integration that one gets to hear about. Coupled with growing nationalism in recent years, this kind of racial prejudice has become an increasing threat to national minorities

<sup>120</sup> Committee on Legal Affairs and Human Rights.

<sup>121</sup> As per the ECRI Second Report on Germany, the fact that "*the Roma and Sinti have been officially recognised as a national minority, in response to requests from Roma and Sinti organisations, is an important positive step in improving their situation.*" However, the German authorities are still somewhat

lax when it comes to combating racism and intolerance against the Roma.

<sup>122</sup> According to AntiGypsyism.EU, “*Antigypsyism is a historically constructed, persistent complex of customary racism against social groups identified under the stigma ‘gypsy’ or other related terms, and incorporates:*

- i. a homogenizing and essentializing perception and description of these groups;*
- ii. the attribution of specific characteristics to them;*
- iii. discriminating social structures and violent practices that emerge against that background, which have a degrading and ostracizing effect and which reproduce structural disadvantages.”*

like the Roma and the Sintis. Romani Rose echoes these very same sentiments, extending the argument to make a point that the socio-political and administrative setup is becoming increasingly violent and threatening towards all minorities in almost all European countries (Rose 2020). In its 2020 iteration of the Roma Civil Monitor (RCM)<sup>123</sup>, Germany took notice of the social policies that may benefit the Roma living in the country. Although Germany’s federal-level policy has not been affected by the EU NRIS (since Germany does not have a national level NRIS), increasingly the administration has been pressured to adopt policies that will positively impact these groups at the local and regional levels. One of the biggest positives of the RCM has been that the participatory actors (a coalition of NGOs) are in close touch with and representative of Roma and Sinti voices (Hanesch 2011).

Germany’s federal structure splits the political responsibility of Roma integration at the federal and state level, mediated by the Department of Interiors operating at both levels. Programmes designed to improve the condition of the Roma are usually under the state and local authorities’ ambits, making it difficult to understand how effective these programmes are. In the milieu of NRIS, political parties have been forced to reckon with the same and generate new policy standpoints. Sadly, however, this has not translated into concrete action on the ground, as was the case with the German National Reform Programme of 2011<sup>124</sup>, which failed on two fronts. One, it failed to address the condition of national minorities at a general level. Two, it failed to cover the specific dire situation faced by the Roma. For the latter in fact, no aims were mentioned, no targets were set, nor were economic or social situations put up for discussion (Hanesch 2011).

As mentioned, at the federal level, the Federal Department of the Interior looks after the protection and promotion of national minorities. It implements both the FCNM and

<sup>123</sup> The Roma Civil Monitor (2017-2020) is a project initiated by the European Parliament and managed by the European Commission, Directorate General for Justice and Consumers. The objective of the project is to strengthen the monitoring mechanisms of the implementation of the national Roma integration strategies through systematic civil society monitoring.

<sup>124</sup> The National Reform Programme (NRP) consisted of the following facets:

1. A medium-term scenario for the country’s economy.
2. Translation of the five ‘headline targets’ agreed upon at the EU level into national targets.
3. The German Action Programme 2011 for the Euro Plus Pact.
4. Strengthening growth and employment in view of the Europe 2020 objectives and the priorities of the Annual Growth Report of the European Commission and the Euro Plus Pact.
5. Accounting of the use of EU structural funds.

the ECRML. It is also responsible for implementing the NRIS. At the state level, the Departments of the Interior of the 16 federal states (*Bundesländer*) promote the interests of national minorities, while at the local level, local authorities look into the same (Hanesch 2011). Along with the above measures, the Federal Government has undertaken the following steps to coordinate matters concerning the national minorities (Hanesch 2011):

1. Establishing the position of a National Commissioner for German Immigrants and National Minorities, who will represent and assist the Federal Government in terms of coordination and generating information policies towards the national minorities.
2. Federal-State-Conference with Minorities has been constituted to implement the FCNM, while the European Language Charter has been constituted to coordinate the implementation of the FCNM and the ECRML.
3. Discussion Group on National Minorities operates at the National Parliament, providing a consultative framework between Members of the Parliament and the various umbrella organisations representing the national minorities.
4. Centre for Documentation and Cultural Affairs of the German Sinti and Roma<sup>125</sup> is funded by the Federal Government (located in Heidelberg).

## **1.5 Social Status and Discrimination faced by the Roma in Germany**

### **Schooling**

Article 14 of the EU's Charter of Fundamental Rights states that education is a fundamental right. In fact, access to quality education becomes the *sine qua non* for successful participation in society, to combat the social exclusion faced by Roma communities and to improve their economic condition. Education in fact may be considered as being the gateway of access to several other basic amenities; including social rights, economic rights, cultural rights, access to housing, access to healthcare and access to employment.

<sup>125</sup> Built in the early 1990s, the Centre is the world's first permanent exhibition showcasing Nazi barbarity and violence upon the Sinti and Roma.

Alphia Abdikeyeva has conducted in-depth and seminal research in order to understand the availability of housing, schooling, job market and other metrics concerning the Roma and Sintis in Germany (Abdikeyeva 2002). As per her research findings, it has emerged that Sintis and Roma are disadvantaged right from their schooling period owing to embedded discrimination within these institutions. A large number of such Roma children are often sent to separate classes that do not cater to their insufficient language skills (Abdikeyeva 2002). Mainstream integration is often not clear, forcing many such children to drop out without having graduated. Many Sinti and Roma children are also saddled with the tag of being "disabled" on account of their socio- emotional problems. This segregates them into separate schools called *Förderschulen*<sup>126</sup>. Again, the criteria to be sent to such schools is not clear, with teachers and other authorities subjectively making this call due to their antigypsyist prejudices. This kind of segregation makes it very difficult for Sinti and Roma pupils to later get mainstreamed into regular schools or access higher education, vocational training, etc (Abdikeyeva 2002). A common problem faced by young Sinti and Roma pupils is that a large part of them do not have a school-leaving certificate (Strauss 2012). This precludes them from accessing the labour market later in life. Many of the Roma



and Sintis often leave the educational system without receiving adequate training or knowledge. Without the requisite qualifications, it saddles them with low paying jobs; although in a study by RomnoKher<sup>127</sup> conducted in 2012, it was acknowledged that the “*available information on the situation of low-qualified youths in the job market and in vocational training is abysmal* (Strauss 2012).”

Although the EU demands targeted support programmes in education, Germany has rejected the same by arguing that the German school system is open to everyone. This has created a significant accessibility barrier for the Roma and the Sintis, many of whom lost out on an entire generation’s worth of educational opportunities following the Second World War (Grunau 2021). The German authorities have only recently started taking note of this kind of systemic anti-Gypsyism at the school level. In 2018, the Conference of Ministers of Education (*Kultusminister Konferenz* or KMK), tasked

<sup>126</sup> These are special needs school for children who are visually impaired/ children with learning difficulties.

<sup>127</sup> RomnoKher is the nationwide association of Sinti and Roma for the promotion of culture and education.

with coordinating and developing education, had initiated evaluation and monitoring mechanisms to combat anti-Gypsyism in the school curriculum. The KMK is currently developing a document chronicling the history and culture of the Roma and Sinti (Roma Civil Monitor: Germany, February 2019).

With the virtual absence of positive references, the school curriculum is often negative and stereotypical. Both the historical persecution as well as diversity amongst the Roma and the Sinti culture and language needs to be better represented. In the state of Baden- Württemberg for example, 2013 saw the formalisation of a curriculum approved by the state legislators. Sadly, almost no one took up the offered topical teacher training programme (Grunau 2021). Going forward, the Roma and Sinti civil society want greater engagement from the side of the German authorities; especially to disseminate more information about the Roma and Sinti culture, dispel prevalent misconceptions and empower these groups on their own terms (Grunau 2021).

## **Housing**

Several generations since the Second World War, many Roma and Sinti families still live in trailer homes and caravans they had occupied temporarily back then (see item 12 in Appendix). As per a Bundestag Resolution of 1986<sup>128</sup>, it was realised that the conditions of living had to be improved to promote the integration of the Roma and the Sinti into the German society. Abdikeyeva has extensively studied the question of housing as well, arguing that with rising rents across Germany, Sintis and Roma have been significantly impacted. Particularly, Roma from Bulgaria and Romania are at the greatest disadvantage due to their insecure conditions of job and residency status. Often, they become the primary targets of housing exploitation through unsafe housing conditions. As per Abdikeyeva’s research, the majority of both these communities today live in substandard and segregated areas, often not conducive to good health. This holds true even in areas like Hamburg, Berlin, Brandenburg, Bavaria and Rhineland-Palatinate. Yet almost no efforts were made subsequently to consult stakeholders from these communities in terms of improving their living conditions. One notable exception to this was the

development and industrialisation of Fröttmaninger district in rural Munich. In Fröttmaninger for example, between 1972 and 2002, over 400 Sinti families

<sup>128</sup> Germany's first report to the Advisory Committee on the Implementation of the Framework Convention for National Minorities, a German Parliament (Bundestag) Resolution dated June 26, 1986.

took up residence in temporary housing containers, virtually inaccessible by public transport system and very far away from Munich's city centre. It was only following the development of the area into an industrial zone that these families were resettled into permanent houses by the government of Munich. In other cases, the consequence of not consulting with these communities can have lasting negative implications. Take the case of Freiburg in Bavaria for example. Even though the government built new homes and schools in the area on the presumption that the local Germans and Sintis would stay together, with time the other German communities moved out, rendering the area ethnically segregated (Abdikeeva 2002).

Sinti and Roma neighbourhoods are often infrastructurally unsound and remote. In Düsseldorf for example, the Sinti neighbourhood is located along the highway, on the outskirts of the city. The area is hardly serviced by public transportation. Houses are not built to withstand the harsh cold weather and there are innumerable bureaucratic red tapes required to secure permission for any construction. Construction carried out by the Roma and Sintis carries the risk of demolition if discovered by the authorities. Locally, most families also had very little access to education and bleak job prospects. In Heidelberg, Sinti families are accommodated outside city limits, in areas without access to clean drinking water (Abdikeeva 2002). Looking at the Dreilinden camping facility for Roma and Sinti, which started in Berlin in 1995, it becomes apparent that despite state support to operate this area, the "houses" here barely pass muster- sometimes being the most rudimentary huts. Roads and other infrastructure leave a lot to be desired, along with blatant racism dotting the landscape in the form of graffiti. In Baden-Württemberg, situations are even more dire. The condition of houses is such that it perpetuates childhood illnesses. Due to the paucity of development funds, the local elementary and intermediate schools had shut down, forcing many Sinti children to be transferred into a school specialising in learning disabilities (Abdikeeva 2002).

In Hamburg, the Rom und Cinti Union have extensively studied the living condition of Sinti and Roma homes, remarking the common problem of poor heating system and lack of ventilation (Abdikeeva 2002). Both these factors add up to create significant health-related problems such as asthma. According to the *Gesellschaft für bedrohte Völker* NGO in Göttingen, Lower Saxony, overcrowding is the leading cause for sanitary problems and health problems across Germany. While similar deplorable housing conditions exist for the Roma and Sintis all across Germany and the UNCERD had observed the problem of ethnic segregation<sup>129</sup> of housing in Germany, the government had been quick to deflect the criticism by remarking that these foreign citizens lived in such habitations because this is what they want (Abdikeeva 2002). Despite living in Germany for hundreds of years, it is still common to see the general perception within the country being that the Roma and Sintis are foreigners.

## Health

The Roma living in Germany suffer from serious health problems such as obesity, diabetes, heart problems, respiratory problems, poor dental hygiene, etc. In principle at least, the Roma and Sinti residing

in Germany are eligible to access statutory or private health insurance schemes, since health insurance has been mandatory for Germans since 2007. Germany's reports to the EC are based on Germany's pre-existing administrative documents. As these do not contain data on ethnic and national minorities, it is quite difficult to analyse the health parameters and performance of the Roma. However, the available information on the health situation of the Roma shows the grim picture of neglect also visible along other parameters. By virtue of being gainfully employed in regular jobs, one or more members of a Roma family become eligible for statutory health insurance. However, in the event of marginal employment (working in mini jobs), individuals and families are not protected.

This risk of the absence of health insurance is markedly high among the Roma who are self-employed and/or have low and fluctuating incomes. In Marius Tudor's work, it has been shown that there are high instances of mortality and illness among the Roma as compared to the rest of the population. Roma populations' average life expectancy varies between 5-20 years lesser than the normal population. Roma infants are 2-3 times more likely to pass away as compared to the general population. Furthermore, research has shown that a number of determinants like discrimination, poverty, lower levels of education and resultant unemployment, the difference in the quality of healthcare and vaccine hesitancy all combine to negatively affect the Roma population (Tudor 2019).

<sup>129</sup> Ethnic segregation in housing has also been studied extensively by Verena Dill and Uwe Jirjahn, using data from the German Socio-Economic Panel (Dill and Jirjahn 2011).

### Hostility and Discrimination

That the Roma and Sintis face systemic persecution is beyond debate. But what makes the situation direr is that the pattern of segregated settlements and habitations are also easy targets for extremism and violence wrought by the right-wing extremists. In 2001 for example, a Roma campsite in Wildau was bombed with Molotov cocktails (European Roma Rights Center Shadow Report 2004). The perpetrators of the crime were never caught and the official police version ruled out any racist motives being the cause for the crime. Socially as well as politically, too many instances point towards rampant defamatory rhetoric. Politicians have variously insinuated that the Roma are the lowest subset of German society and culture. In a famous case of defamation charges, a functionary of the *Die Republikaner* party publicly referred to Michael Friedman<sup>130</sup> as a "Gypsy-Jew" (*Zigeunerjude*); however, he was acquitted of all charges by the State Court of Bavaria (Abdikeeva 2002). More overt and recent instances of violence include the 2020 murders in Hanau<sup>131</sup>, where a gunman killed several Roma and Sinti people (Grunau 2021). This among other incidences has peaked the fear of the rise of Neo-Nazism amongst the Roma and the Sintis. Coupled with this fear is the deep fear and distrust towards the German administration, which still informally continues to refer to Roma and Sintis as Gypsies or *Zigeuner*. Sebastijan Kurtisi, one of the interviewers in the latest RomnoKher study (2021) says that the word *Zigeuner* is deeply problematic as well as stigmatising, with its traumatic history of usage in the Nazi concentration camps (Grunau 2021).

Instances of discrimination exist on a spectrum- from the more heinous instances of overt violence and terrorism, to the more subtle instances of quotidian discrimination. For example, it is still quite common to encounter instances of flat owners being reluctant to lease their property to Sinti individuals and families. When one such case in Bochum went up to the District Court, the Judge ruled that the profile of the tenants was such that it rendered them unrepresentative of the average suitable tenant. When the

ruling was challenged before the European Court of Human Rights, it was declared inadmissible. Similarly, in Hesse, many instances were reported in the local papers,

<sup>130</sup> The Vice-President of the *Zentralrat Deutscher Sinti und Roma*.

<sup>131</sup> On 19 February 2020, a terrorist on a shooting spree killed 11 people and wounded 5 people whilst targeting shisha bars in Hanau.

where flat and house rental agencies refused to lease housing options to the Roma and the Sinti. Often rental agreements were concluded only if previous Roma and Sinti lessees had vacated the flats. Moreover, the rental agencies were given free rein to conclude or not take up rental contracts (Abdikeeva 2002).

Discrimination is pervasive in other matters as well- from insurance services, to access to public swimming pools. Refusing jobs like working at the hospital<sup>132</sup> and cemetery<sup>133</sup>, considered unsanitary by the Roma and hence repudiated, are often grounds for dismissal from service. Despite complaints at the labour court, these unfair dismissals are rejected by the court (Abdikeeva 2002). Racial profiling is easily visible because Sinti and Roma settlement areas are pejoratively considered “Gypsy” addresses. Usually, employers determine job applications in terms of the home addresses of the applicants. Hence housing segregation facilitates racial profiling, which in turn allows for employment discrimination (Abdikeeva 2002). Police indulged in the practice of racially profiling the Roma and Sinti, until, in 2001, the Bavarian police declared they would stop the practice (Abdikeeva 2002). Even though the suspect forms now leave the Sinti/Roma column blank, the euphemistic charade continues. Roma organisations allege that many German state authorities continue to cooperate in sharing and exchanging information about these groups (Abdikeeva 2002).

In 2021, the Independent Commission on Antigypsyism (UKA) presented a report to the German Parliament stating that the situation of discrimination faced by the Roma and Sinti in Germany is still pervasive. Parliamentarians like Helge Lindh (SPD) have acknowledged that Germany must especially be responsible in their fight against anti- Gypsyism (Horvath 2021).

### Labour Market and Employment

Discrimination is rampant in the labour market too. While lack of educational qualification is a barrier to the job market amongst the Roma minorities, the same becomes a protracted problem for the incoming Roma refugees too, many of whom lack knowledge and are consequently overexploited. Facing strong patterns of

<sup>132</sup> The Roma consider hospitals to be unclean places.

<sup>133</sup> Roma notion of cleanliness and purity is behind their reluctance to work in cemeteries. Touching the body of the deceased is out of the question for fear of contamination (*marimé*).

discrimination, the Roma and Sinti are paid poorly and often do not have insurance, social security or employee rights (Roma Civil Monitor: Germany, February 2019). Many Roma who had come in the refugee waves earlier have to wait for years to secure work permits, and are sometimes even denied permits. Most employment agencies will give work to such refugees only if the work is something German citizens or a foreign national resident with a work permit cannot do. It is only after at least 4

such years of vetting by an employment agency that a refugee can work without a permit. However, the cumbersome procedure for renewing residence permits (sometimes in durations of lesser than 3 months at a time) means that these jobs are less lucrative for potential interested Sinti and Roma refugee candidates (Roma Civil Monitor: Germany, February 2019).

30 years since Chancellor Helmut Schmidt publicly recognised and acknowledged Nazi barbarity upon the Roma on racial grounds, Chancellor Merkel had unveiled a memorial for Roma victims in Berlin (see item 13 in Appendix), beside the Reichstag. Despite the acknowledgement of the genocide, the Chancellor also admitted that the German Roma and Sinti continue to be excluded and discriminated against (Brenner 2018). In fact, a 2014 survey<sup>134</sup> on German people's attitudes towards the Roma showed that almost all sections of the population had constructed prejudicial and derogatory stereotypes about them (Brenner 2018). This trend was underscored further, in the 2016 research by the Pew Research Centre, which revealed that the degree of unfavourable views towards Roma and Sintis was significantly more than for any other minority or ethnic groups (Brenner 2018). Furthermore, another research conducted by Friedrich Ebert Stiftung revealed that approximately 25% of the German population is hostile in its view towards the Roma and Sintis (Brenner 2018).

### **Roma Minorities versus Roma Refugees**

Using the FCNM as a tool, the German government has included the German Roma and Sinti as one of the four national minorities in Germany. This assertion is important as it contains an implicit point: it does not offer protection and rights to Roma who are foreign to Germany, Roma refugees or stateless Roma and Sinti (Hanesch 2011). Roma refugees have very limited rights, limited freedom to move and a compulsion to reside in officially designated refugee settlements. These settlements have abjectly poor living

<sup>134</sup> It was conducted by the Federal Anti-Discrimination Agency.

conditions, which is a feature consistent throughout the various settlements across the country. It is instructive here to look at the case of the Kalk settlement in Cologne (see item 14 in Appendix). In 2001, the former Yugoslavian Roma population who had been residing in Cologne since the 1990s, were sought to be moved out to Kalk, which was on the outskirts of the city. However, the authorities judged that only 3.5 square meters of space was required by each Roma in the containers constructed to house them in Kalk. Moreover, the settlement also did not contain any playgrounds, with unfinished building material still dotting the landscape at the time when these were handed over to the Roma and Sintis. Even more damning is the fact that Kalk had a chemical plant in the area, which had long rendered the area hazardous to human health, at least officially<sup>135</sup>. The federally allowed maximum limits for arsenic and lead were breached, leading to a protracted Roma demonstration against the resettlement plan (Abdikeeva 2002). According to Abdikeeva, this kind of a resettlement plan by the authorities in Kalk was intended to dissuade Roma refugees (especially from Yugoslavia) from staying on and to encourage them to return to their own countries. This kind of a policy to encourage return takes several forms (Abdikeeva 2002):

- i) Offering an allowance in lieu of transportation and resettlement to refugees who willingly volunteer to return.
- ii) In the case of unwilling refugees or those who are unable to return, the authorities may cut welfare



support and/or initiate deportation.

In recent times, authorities from states like Cologne have now stopped giving cash allowances, instead providing housing containers and food to these settlements themselves. Again, the quality of housing and food is such that it will induce the refugees into disliking it, thereby making them amenable to returning to their own countries. In Hamburg, it is even direr. In the notorious Sciff Bibbi area, for example, the refugee resettlement has been constructed on a ship, where visitors are not allowed inside (Abdikeeva 2002). In 2012, following a nudge from the NRIS, the Berlin Senate implemented an action plan to integrate the Roma, focusing on education, housing, employment and health (Eurocities 2020).

<sup>135</sup> In contravention of the EU's adoption of Seveso Directive in 1982, which bans housing in most-at-risk areas.

### 1.6 Germany's National Roma Integration Strategy

In the Report from the Federal Republic of Germany to the European Commission (2011), the German authorities opted to present an integrated set of policy measures drawing from Germany's general social inclusion policies. In their own words, Germany claimed that the roughly 70000 German Sinti and Roma living in Germany were already well integrated within the German society and therefore, did not require a separate, specific Roma strategy. Similarly, it was claimed that the foreign Roma (immigrants and refugees) also did not require a separate strategy. They claimed that these groups can access the integration programmes available for the other groups of foreign nationals.

Crucially, the German authorities claimed that the representatives of the German Roma and Sinti had not asked for a national strategy; rather they wanted expedient political action for their specific problems. In fact, the German authorities contended that exclusive strategies designed to alleviate the economic and social problems of the Roma may in fact encourage their further marginalisation and exclusion. Furthermore, under the FCNM, Germany is already monitored by the ECRI and the CERD. The Federal Ministry of the Interior monitors the FCNM (Roma Civil Monitor: Germany, March 2018), while the Federal Ministry of Justice monitors the ECRI and the CERD. After adopting the EU Framework for NRIS until 2020, a position of National Roma Contact Point was established (Roma Civil Monitor: Germany, March 2018). This has led to the federal agencies, the Länder and the local levels to push for stronger policies (Report from the Federal Republic of Germany to the European Commission 2011).

Because anti-Gypsyism continues to remain a strong barrier across all walks of life, the fight against this phenomenon has strengthened. With regard to anti-discrimination, it is seen that the EU Racial Equality Directive still faces a considerable gap with regard to implementation. In a study conducted by the European Commission in 2018 (Roma Civil Monitor: Germany, March 2018), it was seen that the General Equal Treatment Act (AGG) is not effective in preventing discrimination in education (as public education is regulated by the Länders). The study found that no complaint regarding Roma discrimination has been successful to date. Even today, the Roma face considerable discrimination in terms of schooling and housing.

Since 2017, the German authorities have started recognising the specific forms of racism against the Sinti and Roma. These anti-Gypsyist racialised criminal offences are now recorded in the Political Crime Statistics. Before 2017, these crimes were not differentiated from the other xenophobic crimes. Yet even the detected offences represent only a fraction of the actually committed ones. Even though anti-Gypsyist hate speech in electoral campaigns is punishable<sup>136</sup>, yet the German judiciary has still not taken

notice of the same. Such anti-Gypsyism has been reflected not just in the right-wing discourses but has become increasingly mainstream, tainting popular opinion against the Roma.

So far, only Berlin has a strategy for the Roma which is designed to combat anti-Gypsyism and to promote the inclusion of Roma who have arrived from other European countries<sup>137</sup>. This strategy does not deal with the Roma and Sinti who are national minorities. Furthermore, German Sinti and Roma representatives have also argued that if their communities are projected as needing social inclusion policies, then it might trigger further anti-Gypsyism. Hence the authorities and the civil society have instead chosen to focus on combating anti-Gypsyism. In March 2019, an “Expert Commission on AntiTsiganism” was established to look into prejudices and stereotypes concerning the Roma and how these can best be remedied.

In a report<sup>138</sup> published in 2019 (Roma Civil Monitor: Germany, February 2019); it was seen that with regard to employment, housing, health and education, significant gaps still exist. Unemployment and irregular employment amongst the Roma and Sinti continue to remain high. The Ministry for Employment and Social Affairs also does not offer any programmes targeted towards employment generation. In terms of housing, the Roma are often victims of discrimination based on their ethnicity, which often leads them to take up residence in unsafe conditions. Due to poor living conditions and poor levels of education, along with the ethnicised discrimination the Roma face, they are also prone to developing more health disorders. Finally, with regard to education, it was

<sup>136</sup> German Penal Code’s Article 130 (*Volksverhetzung*): it is a crime to “*incite hatred against segments of the population or call for violent or arbitrary measures against them in a manner capable of disturbing the peace.*”

<sup>137</sup> Adopted in 2012, the strategy called for the development of a regional plan on inclusion for the Roma.

<sup>138</sup> Published by the Central Council of German Sinti and Roma Documentation and Cultural Centre of German Sinti and Roma.

seen that segregating Roma children from non-Roma children leads to the development of insufficient language skills. Moreover, as a lot of these Roma children are not sent to mainstream classes, they often leave school without graduation. Roma children that are sent to special needs schools often end up developing socio-emotional problems. Such pupils also face discrimination from their classmates and teachers. Since the anti-discrimination legislation does not apply to public schools in Germany, it has been found that countering discrimination and anti-Gypsyism in the education sector is particularly lacking. Even as recently as 2019, it was seen that the Roma and Sinti continue to face discrimination that hampers their exercise of civil and social rights (Roma Civil Monitor: Germany, December 2019).

### 1.7 Roma: French Assimilation Conundrum

As mentioned elsewhere in the course of the present study, even the term “Roma” is an anomalous entity for the French legislation, seeing as French legal precepts are ethnically and religiously blind in their outlook. Naturally, this precludes any attempt at enumerating this group (whether as national minorities or as incoming waves of refugees). Although theoretically, the French model of Assimilation ought to have made the Roma an integral part of French socio-political life, the truth is significantly different. The Roma are still significantly divergent from the mainstream, and are considered to be at the very

bottom of France's socio-political order (Astier 2014). Hence the Assimilation conundrum arises: there isn't a definitive policy or guideline by France to assimilate the Roma. Rather, there are a set of policy measures designed to create social inclusion, to which the Roma must mould and adhere.

The history of Roma ethnic groups in France starts from the 15<sup>th</sup> century, but to date, they face discrimination in various walks of life (Strassenburg 2013). The situation has become all direr due to the authorities' crackdown on the incoming wave of Roma refugees and immigrants (particularly from Eastern Europe). Quite significantly, it was Sarkozy's policy to shut off Roma camps (see item 15 in Appendix) in 2010 that set off widespread resentment on both sides and showed the tenuous nature of France's Assimilationist policy (Severance 2010). In the words of Baro, a Roma residing in the Eastern Paris suburb of Montreuil: Sarkozy's administration made it possible to denigrate the "Gypsies." Following suit from the President, the general people also began to openly consider Gypsies as thieves and child-nappers (Strassenburg 2013).

Despite being French citizens, the treatment of Roma under the successive governments has repeatedly underscored their second-class status. Children of the community regularly hide their heritage and ethnicities while going to school. At work, disclosing their ethnicity can either lead to them not getting hired, or being put under constant monitoring and surveillance (Strassenburg 2013). Roma descendants residing in present-day France have diverse ethnic origins and names: Roma, Tzigane, Manouche, Sinti and Traveller. Yet the common appellation of "Roma" serves to merely homogenise the group forcefully. Many of these ethnic groups feel that the common appellation can negatively affect the various Roma descendants of the diverse ethnic origins, as they are being viewed with the antipathy reserved for the Roma of Bulgarian and Romanian descent (Strassenburg 2013). In the words of Olivier Peyroux, who has studied the unequal treatment of Roma for years, Roma is the sort of transnational minority who has come to epitomise destitution and exclusion. In fact, the question of their integration has been a long-standing conundrum. According to him, the slums that have emerged in the outskirts of the various metropolises of France are not the result of traditional Roma nomadism but the effect of abrupt socio-political upheaval in South-eastern Europe. Even as a younger generation of Roma is trying to assimilate within the French state and its culture, the continuation of traditional family life and values is also given importance (Strassenburg 2013).

### **1.8 Legal Status of the Roma in France**

Dr Tove H. Malloy<sup>139</sup> wrote a scathing foreword in an ECMI Working Paper in 2014, arguing that three European countries stood outside the minority rights regime created and adopted by the EU. For different reasons, these countries have repudiated the normative framework of protection afforded to minorities. For Greece, it is because they only recognise the Muslims of Thrace, who are given protection through a bilateral treaty. For Belarus, it is due to the lack of democratic institutions, which precludes membership in European organisations. For France, it is because there exist no minorities in its territory (Malloy 2014).

The French state's policy refuses to countenance any reference towards national, ethnic, racial, religious or linguistic minorities. The French state is a votary of interacting with the individual based on the maxim of equal treatment. Absolute equality has come to

<sup>139</sup> Director of European Centre for Minority Issues.

epitomise France's model of Assimilation; hence any targeted measure towards ethnic, religious and linguistic groups is strongly repudiated. In practice, this has had an insidious effect: a pervasive threat of "invisibilising" these minority groups (Gilbert and Keane 2016). In the French Constitution, "equality" is the reason behind not collecting any ethnic, racial or religious statistical data. The national census similarly does not shed light on race or ethnicity questions. This creates two implications, as discussed elsewhere in this study:

- i) There is no data with regard to discrimination on religious or ethnic grounds.
- ii) The absolute approach towards equality and neutrality has been interpreted by the judicial and executive administrations as a prohibition of any form of religious affiliation in the public sphere.

The notion of this absolute neutrality has a historical precedent under the 1789 French Revolution; however, in today's context as well, it has led the Constitutional Court on many occasions to enforce the same. Crucially, France has not fully acceded to the FCNM. In 1999, the Court ruled that the ECRML is unconstitutional as it would impinge on "absolute equality." This effectively screened out the introduction of minority rights from the French legal system (Gilbert and Keane 2016). Additionally, France is a member of both the CoE and the OSCE and has ratified the ECHR but not Protocol 12<sup>140</sup> (Van Baar 2011). Casaba Tabajdi did not receive any official information about the legal status of the Roma from France. In his report, it was noted: France did not faithfully answer the CoE's questionnaire, arguing that the questions did not match France's context.

The Roma, largely itinerant, have been nomadic for generations. The French Republic as mentioned already, does not recognise minorities. However, the Traveller-specific Besson Law<sup>141</sup> and the National Consultation Commission of Travellers (*Commission Nationale Consultative des Gens du Voyage*) and the regional commissions (*Commissions départementales consultative des Gens du Voyages*) show the French authorities' tacit acknowledgement that there exists a specific minority group. Despite

<sup>140</sup> Protocol 12: *The enjoyment of any right set forth by law shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.*

<sup>141</sup> Law of 2000-614 of 5th of July, relating to the Halting and Housing of Travellers.

this recognition, it has in no way created positive public sentiments towards the Roma. In fact, the Roma are one of the most marginalised minority groups in France. Article 9 of the Besson Act, in fact, severely affected freedom of movement by restricting the choice of residence and limiting the number of halting areas<sup>142</sup> (*Association Sociale Nationale Internationale Tzigane* 2019).

Through the restrictive Law 2007-297 of 5 March 2007<sup>143</sup>, the French authorities tried to clamp down on the so-called delinquency of the Traveller Roma. The law gave the right to local authorities to avoid petitioning to courts in order to secure Roma eviction from a particular area. Through the new procedure, a mayor can directly secure eviction by addressing a letter to the local prefect. The prefect's time period to warn the Roma is 24 hours only, during which duration if the Roma do not clear out of the area, they can be forcibly evicted. In this scenario, the Roma then has to petition the administrative court, which will suspend the execution of the prefect's decision. The court must pass its decision within 72 hours, which becomes immediately executable and is not necessary to be served to the Roma in question. This law effectively grounded the limited rights possessed by the Roma under due legal process. It also made it obligatory for the Roma to prove that their "trespassing" is owing to the lack of camping sites in the

vicinity. This law has over the years been misused greatly by the administration and the police to muzzle the rights of the Roma. Particularly entire communities of Roma have been evicted in the name of controlling criminal tendencies and maintaining law and order (*Association Sociale Nationale Internationale Tzigane* 2019).

In the 2012 Universal Periodic Review (UPR), France was questioned by the various delegation regarding its discriminatory treatment of the Roma. France's response to it was that it does not recognise the existence of specific groups or communities with specific rights. This is in view of the fact that the Republic is indivisible, there is equality before law and unity amongst the French people (Gilbert and Keane 2016). A national strategy to include the Roma was adopted in 2012, so as to give impetus to the education, employment, health and housing sectors. On the question of Roma camps, the government justified their dismantling due to the immediate danger of health risks

<sup>142</sup> Article 9 states that there is a legal general off limit policy against mobile accommodation.

<sup>143</sup> According to this law, the mayor will have a central role in terms of creating prevention policies and assisting the tribunal in enforcing this policy, with regard to Roma delinquency.

(McPartland 2012). Although France is not a party to Europe's various minority rights instruments, it has not been exempted from international scrutiny wholly. By virtue of its membership in the United Nations and its participation in the UN Declaration and other human rights instruments, a degree of accountability over the question of minority rights and treatment seeps in and makes France answerable (Malloy 2014). Following a 2012 Amnesty International investigation, a big scandal concerning the forcible eviction of a large number of Roma had been revealed. It also noted that these evictions progressively deteriorated their living conditions. In studies conducted by L K Yuille in France, it has been shown that there is a significant barrier to establishing a political voice for the Roma in France, as French law requires non-permanent residents to carry special circulation documents, effectively severely limiting the Roma's access to elections and polls (Kelley and Edwards 2017). Louis de Gouyon Matignon, who is an advocate for the Manouches settled in France, mentions that 2012 marked the 100<sup>th</sup> anniversary of the start of the "circulation notebook"<sup>144</sup> which was intended to capture the itinerant lifestyle of all Travellers/ Gypsies above the age of 16 years in France. Matignon mentions that the notebook must be stamped every three months in a police station to show the town to which the Roma are affiliated (Voxeurop 2012).

## **1.9 Social Status and Discrimination faced by the Roma in France**

### **Schooling**

French law makes it mandatory for children between the ages of 6-16 to attend school, regardless of whether they are born in France or elsewhere, and regardless of their duration of stay in the country. France's ratification of a number of international as well as European documents has led to a binding obligation to guarantee the human rights of the people living within the country (Zaharieva 2016). The circular n° 2014-088 of 9 July 2014 mentioned that education was the right of all children living in France, irrespective of their background, nationality or migration background. Even prior to this, Circular n° 2002-101 of 25 April 2002 specified that children of Travellers and

<sup>144</sup> In 1895, the French government for the first time ordered a census of nomads, Bohemians and



vagabonds. From March 1908 to July 1909, almost 8000 nomads were photographed and recorded under Clemenceau's orders. In 1912, the "Bertillon Method" was used to establish anthropometric passports for the nomads. This system basically racially stigmatised nomads through judicial identification based on physical description of repeat offenders. The law forced all nomads to have a passport by the age of 13- which needed to be validated when entering or leaving any municipality.

non-sedentary families must at least temporarily be accepted in primary schools. Yet in subsequent research by the ECRI in 2004 and 2010, it was found that authorities were flouting the law and refusing to enrol such children.

Several civil rights groups (of whom, seminal work has been done by ERRC) have pointed out that about 67% of children living in informal settlements do not attend school, while 30% (regardless of French-born or from outside) have never even been registered for school (Bollack 2017). In the words of Clotilde Bonnemason of Collective for the Right of Roma Children to Education (*Collectif pour le Droit des Enfants Roms à l'Education*), local councils often ignore these communities in matters of schooling (Zaharieva 2016). Local Councils often fail to conduct censuses for squatters and those living in shanties and mobile homes (as the Roma family are unable to prove their residence status). Lack of parental residency and tax proof often keep Roma children from social benefits that could have provided them with meals in schools. The distance of schools from Roma homes often makes travel prohibitively expensive, and as per a 2012 guideline (Pedagogical Unit for New Foreign Arrivals) of the Ministry of Education in France, non-French-speaking children are put in special schools (Bollack 2017).

As per a 2014 report by the *Collectif national des droits de l'homme Romeurope*, more than 800-12000 children of school-going age reside in slums and squats in France (Zaharieva 2016). The gap in terms of living conditions has a direct and profound impact on access and opportunities for education. In fact, for Roma migrants from other EU countries, this discrimination was even higher. According to the *Collectif pour le droit des enfants roms à l'éducation* research report, whereas about 50% of Roma teenagers (between 12-18 years of age) were out of school, the corresponding figures for the rest of the French population was only 7% (Zaharieva 2016). Thus, the Roma face double trouble: to be a part of France's social system, they have to clear France's education system. However, the low socio-economic status of Roma children precludes their school admission (Zaharieva 2016).

## **Housing**

French law defines "mobile homes" of the Roma as a vehicle designed for temporary and/or seasonal occupation, which can be towed when required to be moved, but may not move independently along the highways. On the flipside, caravans are allowed to be used on highways and can remain parked on authorised caravan/ camping sites for unlimited durations. Crucially, no modifications are allowed on mobile homes which can render them into permanent habitations, such as coverings or fencings. Mobile homes should also be installed on designated leisure grounds; wherein for periods of less than 3 months (15 days in protected areas), no permission is required. Beyond 3 months and up to a maximum period of 2 years, camping on the leisure grounds is permitted subject to the approval of the planning authority. The 2-year upper limit is to discourage the utilisation of the site as a permanent home. The movement of the mobile homes requires specialist transport companies to be enlisted (*Convoy exceptionnel*). Mobile homes, as well as caravans, are not subject to local taxes provided the means of mobility is maintained. In fact, the annual tax applicable on caravans and mobile homes (when used as the principal home) was

abolished on October 1<sup>st</sup>, 2019 (FrenchProperty.com).

Local authorities are supposed to permit the right to install caravans and mobile homes on buildable plots in conjunction with the planning commission (Sudetic 2013). Practically speaking, around 95% of urban plans generally put a ban on main residence mobile accommodation; which implicitly doesn't allow the Travellers to set up mobile homes (*Association Sociale Nationale Internationale Tzigane* 2019). This artificially created housing crisis forces the Roma to sedentarise their living patterns over time, which is used as justification by the French authorities to further reduce the number of halting sites, and not enforce the municipal obligation to provide halting areas (*Association Sociale Nationale Internationale Tzigane* 2019).

In the year 2000, France enacted the Besson Law that requires every municipality with at least 5000 residents to create a stopping area for travellers. Travellers are individuals with mobile homes as per the law. Crucially, the law does not mention the Roma by name; even though the fact that many Roma are itinerant travellers. Hence the law had clear applicability for them. The idea behind the law was to improve the economic status of Roma and allow them better access to education. Sadly, most French municipalities have not implemented the Besson Law, which many Roma have considered as an indifferent French outlook towards the Roma<sup>145</sup>. Furthermore,

<sup>145</sup> An oft-exploited loophole to the Besson Law was the Borloo Act, which provided that in the event of a municipality having less than 20,000 residents and having 50% social housing, such municipalities will

Sarkozy's contentious law (Sarkozy Law II) in 2003 made the situation even more contentious, as it criminalised the Roma whose mobile homes were not set up in legal halting areas. There were too few places to park their mobile homes, while it was simultaneously criminalised to park in non-designated areas (Huda 2012). Hence the Roma typically find themselves in the poorest areas of France. In Marseille, for example, there is a stark North-South difference<sup>146</sup>; with the Roma housed in the poorer Northern part (Foisneau 2017). Since the late 2000s, some French municipalities have started creating integration villages (*villages d'insertion*) for the Roma. It is being argued that these habitations are a sustainable alternative to the mushrooming Roma slums around the peripheries of city areas. But the dichotomy of creating these new spaces is how the Roma become victims of eviction from their earlier homes. Scholars like Manson have argued that these villages end up being manifestations of state power through the provision and exclusion of access to rights like shelter and health (Manson 2017).

The French authorities have separate regulations governing Traveller homes (*gens du voyage*). The law provides that council areas with more than 5000 residents (or smaller councils clubbed together) should create gypsy sites (*aires de stationnement*) where the homes can be installed (see item 16 in Appendix). Each of these sites has definite rules regarding the duration of stay (permanent duration or temporary duration). However, in practice, many of the local councils widely repudiate these stipulations. The absence of proper implementation of the Besson Law, as well as the Sarkozy II Law, made the housing issue for Roma in France particularly dire and salient. In research carried out by Emmanuel Filhol, it has been shown that only 20% of the 38,000 areas have actually been created (Filhol 2010).

As per the European Roma Rights Centre, halting and living conditions for the Roma and Travellers in France are typically poor (close to factories, dump yards and polluted rivers and streams). Often eviction is led by police raids and the Roma are subjected to physical and verbal abuse. Related to housing difficulties is the problem of access to basic amenities. Roma families have difficulty accessing potable

water, which makes it

be exempted from the obligation of providing halting sites to the Roma. These cities in fact became entirely off limits.

<sup>146</sup> This is also in violation of the Seveso Directive, which was put in place following the accident in 1976. This area near Marseilles is less than 500 metres away from a chemical factory.

difficult to send Roma children to school on a daily basis (Huda 2012). Clearly, French laws and their on-ground implementation have left a lot to be desired in terms of adequate living standards for the Roma; this, in turn, affects their other areas of life, such as accessing free education.

### Health

Since 1999, the French government has passed the universal health coverage act<sup>147</sup> which covers nationals as well as foreigners under healthcare and social security benefits. In 2001, the government passed a second bill that provided healthcare for those who could not afford it or were undocumented<sup>148</sup>. Yet despite these reforms, the uptake of these benefits was still slow and low among the Roma. Manson's work has shown that there were primarily three reasons for this: i) the Roma have incomplete knowledge about their rights; ii) the Roma are aware of their rights but do not claim them and; iii) their claims are rejected (Manson 2017). As mentioned earlier, Manson's research has also looked into the integration villages within France, which he argues is used as a tool by the state government to evict Roma from their habitual camps along the peripheries of major cities. The price of being able to settle into these villages and access services like healthcare, is to simultaneously be a part of the French state's project on integration by othering. Research by Perez has shown how the difference in health status across social class groups can be explained by referring to relative inequality in access to social resources. Her research on health metrics in France has shed light on the gross health inequities faced by Roma women. Based on her research, she has claimed that almost 70% of pregnant women did not have access to antenatal health check-up services. Often, language and cultural barriers were the biggest obstacles in their path to securing health benefits. Poverty was similarly a large contributing factor in terms of the lack of healthcare facilities available to them. Perez has argued that poverty, in fact, has trans-generational consequences of ill health, which is passed down to successive generations. She also states how the dominant health discourse of the Roma is guided by emergency healthcare, rather than taking precautionary measures. This is what makes them wary of allowing vaccination for their children (Perez 2017).

<sup>147</sup> Couverture maladie universelle (CMU).

<sup>148</sup> Aide médicale de l'état (AME).

### Hostility and Discrimination

In 2017, more than 4000 Roma were evicted from 50 settlements across France, for supposedly flouting safety and sanitation norms, as per a study conducted by the League of Human Rights and the ECCR, with the support of the Romeurope Collective of National Human Rights (Bollack 2017). This kind of recurrent eviction drives constitute a vicious circle of impoverishment and marginalisation for the Roma;

who have to constantly face socio-economic and administrative discrimination, which disrupts their housing, education, employment and beyond. Often local councils do not intimate in advance regarding a date of eviction, which does not give the Roma enough time to prepare. Such immediate clearance of a site often leads to temporary homelessness (with housing then provided in homeless shelters) and a lack of access to transportation facilities. These shelters are often very rudimentary, without even access to sufficient storage, cooking facilities or fridges (Bollack 2017).

The report mentions how cities like Strasbourg and Toulouse have eliminated informal Roma settlements and succeeded in their integration policies owing to stable housing, registration of children into schools and vocational training, and linguistic support for adults that help them in finding work. Yet the political will to champion integration of this kind is largely absent; often local municipal authorities refuse to do this needful and argue it is the state's prerogative. The rights group for their part argue that while single evictions/demolitions cost between 150,000-230,000 Euros annually, community-wise integration efforts cost only 150,000 Euros each year (Bollack 2017).

Following vicious attacks on the Roma in 2014 and 2019, it led to a serious disagreement between the political factions in France regarding whether to allow the Roma to integrate into France's politico-social fabric. The country was already reeling under the impact of Sarkozy's "voluntary repatriation" programme of 2010, which saw each adult Roma receive 300 Euros in exchange for leaving the country. Sarkozy's administration had made a hallmark of the security issue and such a hard-line stance was pushed on grounds that illegal settlements were a security risk. Yet leaked memos by the government presented quite the opposite picture; *Roma settlements were to be demolished on priority* (Severance 2010).

This led to significant criticism within the ERRC, the EU, The UN, and the Vatican, with the EU calling France's action a disgrace<sup>149</sup>. Once again in 2012, the Hollande administration replicated Sarkozy's policies and the French police evicted and demolished hundreds of Roma camps, repatriating many Roma people to Romania. Clearly, the national policy in France was inimical to the process of integration that was required of the Roma. Police action and administrative disciplinary measures against the Roma are common; tainted as they are with the tags of criminals, kidnappers and thieves.

Following the 2014 gang attacks orchestrated during the eviction drive by the police, a 17-year-old Roma youth named Darius was viciously attacked and left in a coma. This had engendered significant debates across the country's political spectrum. Right-wing leader Louis Aliot of the National Rally (RN) claimed it was not a hate crime and showed the consequence of the EU's migration policy and the Schengen Agreement. In Aliot's words, integration is not possible in France as there are numerous economic pitfalls and unemployment plaguing the system. He argues that the Roma tend to go to states where they can reap the maximum benefit without extending any reciprocal services or requirements. On the other hand, there are politicians like Romanian Member of the European Parliament, Damian Draghici, who argue that Aliot and other right-wing French politicians provoke hate speech and violence against the Roma. He argues that hate speech of this nature contravenes Europe's spirit of free movement. He further claims that it is not statistically proven that the Roma are inimical to integration. Rather, most Roma emigrate with a view to securing a better life and contribute to the host community's development.

### Labour Market and Employment

In a report by Will Guy, Andre Liebich and Elena Marushiakova, it has been shown that following the

global financial downturn of 2008, employment was precarious across the board, with the low-paying and low-skill jobs of the Roma taking a disproportionate hit (Guy at. Al. 2010). The formal exclusion of the Roma from France's labour market aggravated this further. Before 2012, French employers paid a

<sup>149</sup> According to Commissioner Viviane Reding's statement: It was "shocking" that contradictory assurances had been given by the French ministers in Brussels, and that her "patience is wearing thin. Enough is enough," adding that "[n]o Member State can expect special treatment when fundamental values and European laws are at stake."

tax of approximately 713 Euro for each person hired under the work-permit programme (subject to an approval period of 3 months), making hiring Roma prohibitively expensive (Boitiaux 2012). Despite the EU's exhortations to integrate Roma within the labour markets, France's actions can only be called a repudiation of the same. At the same time, the question of a job market arises only if the Roma have had access to education. In many cases, as previously discussed, the very fact that schooling restrictions and lack of registration preclude any formal training, the Roma are often unable to acquire the basic knowledge and training required to take up even a low paying job.

The fact that the French policy was contrary to the EU philosophy of free movement required for labour market efficiency, speaks volumes about the French government's anathema towards tolerating the Roma. French policies became policy disasters, especially in light of the fact that once restrictions on acquiring jobs (on the Roma from Bulgaria and Romania) expired in December 2013, the immigrant Roma failed to find a footing due to the unlevel playing field (Boitiaux 2012). This further weakened the prospects of one of the most marginalised and already disenfranchised groups. This also makes it nary impossible for the Roma to integrate within the French society and culture, seeing as their economic status continues to tailspin.

### **Roma Minorities versus Roma Refugees**

According to Jean-Pierre Liégeois, there are between 300,000 and 400,000 Roma in France, of whom only 10,000 to 12,000 are refugees and foreigner Roma (Liégeois 2017). The majority of Roma in France have a significant history of stay, with the Roma over time establishing communities rather than continuing their migratory movement. A significant portion of the migrant Roma have come from Romania and Bulgaria.

As mentioned in the introductory chapter, part of the problem with the French government's engagement with the Roma issue is their unwillingness to address these groups according to the Council of Europe's glossary (Maestri 2016). The words of Sarkozy are indeed reflected in much of the French administration's outlook. In a French parliamentary meeting in 2002, Nicholas Sarkozy had stated that the terms "Nomads", "Travellers" and "Roma" are not important. From an administrative point of view, these terms could be used interchangeably (Maestri 2016). Often the terms themselves and their usage hide the differences between Roma who have long- established traditions of living in France and Roma who have come in as migrants following the dislocation in Eastern Europe (after the break-up of Yugoslavia).

According to the research carried out by Gaja Maestri, the conflation of these various categories and terms in everyday French administrative and political parlance serves a discursive function: that of casting the Roma as a uniform, threatening "other". In a way breaking down the terminological



boundaries also serves the French state well; it creates the possibility of casting the Roma as a dangerous opponent, to combat whom the French state has justifiably devised policies of exclusion and marginalisation. According to her, Sarkozy's statements were criticised for oversimplifying the difference between French Travellers and the Roma from Eastern Europe. But even in this verbal *faux pas*, there was a deliberate intent to blur the difference such that any future course of action taken against either or both groups would find administrative and popular support (Maestri 2017).

### 1.10 France's National Roma Integration Strategy

The fact that France does not recognise ethnic minorities, plays an important role when it comes to formulating French administrative and legal policies. It correspondingly makes it difficult to monitor policies targeting ethnic groups like the Roma. Hence even though the term "Roma" has been used in France's NRIS as well as the EU Framework, its content is not considered ethnic in France. France has frequently critiqued the way in which the EU and the other Member States approach the social policies through an ethnic prism. Instead, France justifies its mainstreaming and assimilationist model as a justification for its thrust on equality. The French authorities have formulated social inclusion policies for particular groups, namely the "gens du voyage" and EU citizens living in slums and shanty areas, who have over time become conflated as "Roma" and who are referred to as "migrant Roma", although the Roma Civil Monitor considers this to be an abuse of language officially (Roma Civil Monitor: France, March 2018).

The policy framework for the French NRIS is actually an inter-ministerial circular of 2012 regarding the evacuation of illicit encampments. The Interministerial delegation for emergency housing and access to housing (DIHAL) is in charge of following up on this policy's implementation. However, unless local authorities approach the DIHAL voluntarily, the latter cannot provide financial aid or expertise. Roma participation and the entirety of Roma civil society is quite weak; and to add to their woes, local mayors and prefects often direct evictions rather than allowing for the resorption of shanty towns as is the right of its inhabitants. Furthermore, budgetary support for the Roma as well as the gens du voyage is already low and has faced a decline in recent years. Follow-ups to the 2012 circular<sup>150</sup>, when made, have suffered from their reduced consultative role. These bodies were not even able to guarantee the functioning of these projects. Furthermore, funding for Roma inclusion activities also becomes difficult owing to the different political orientations of each region (Roma Civil Monitor: France, March 2018).

Although the French equality body (The Defender of Rights)<sup>151</sup> has immense prestige and is a soft law pillar, yet practically speaking it becomes onerous for the Roma victims of discrimination to access this body. Segregation continues to affect the Roma. Since the traditional sites for many of the Roma were caravan sites in remote outskirt areas, it has been seen that many of the locations for integration projects of the Roma also coincide with these spots. Even though a law was adopted to protect inhabitants of shanty areas from eviction during winters, it was counterproductive since the authorities speeded up their eviction drives prior to the onset of winters. Furthermore, strict municipal law regarding halting sites for caravans means that the Roma are often forced to move. In such scenarios, the police often abuse and use violence against the Roma (Roma Civil Monitor, France: March 2018).

Just like in the case of Germany, anti-Gypsyism is quite normalised in the public discourse of France, although it is also not specifically targeted by any law, regulation or institution. Take for example the case of Minister of the Interior, Manuel Valls, who has frequently declared that only a minority of the Roma are able to integrate because their lifestyles conflict with the French way of living (Gil 2015). A

subsequent lawsuit<sup>152</sup> filed against him was not taken up by any court of law. Even textbooks make

<sup>150</sup> National Consultative Commission on gens du voyage.

<sup>151</sup> Following a constitutional reform in 2008, the Defender of Rights was established. According to Independent Police Complaints Authorities' Network (IPCAN), "Defender of Rights sets up a preventive action to promote rights and equality and ensures the respect of individuals' rights and freedoms by dealing with the individual complaints that he receives."

<sup>152</sup> Lawsuit filed by La voix des Roms against the minister for inciting racial hatred.

mere cursory mentions of the Roma as victims of genocide in the Second World War, conveniently relegating them to footnotes of history.

In a report prepared by the NGO La voix des Roms in 2019, facets of housing, employment, education and health were discussed. Poor housing conditions act as a significant barrier towards employment. The lack of administrative domicile and the fact that many Roma live in informal squats and slums precludes them from social and public services. Even in terms of nomenclature, the fact that the French authorities name the itinerant Roma community as "*gens du voyage*" is indicative of how housing forms a central pillar with regard to policies aimed at the Roma. The Roma usually live in a segregated fashion, in either managed areas or self-managed areas. In the first case, it is the public authorities that choose the location of the housing area, while in the latter case, it is characterised by the lack of access to housing. Very often, the local authorities choose to evict the Roma from the areas and hence do not offer necessary facilities like water, electricity, waste disposal, etc. Even though in 2017 a law on "Equality and Citizenship"<sup>153</sup> was adopted and which enlarged the scope of housing for the Roma, its implementation has been quite slow. Furthermore, in 2018, a new circular was issued to complete the 2012 circular. This one said that slums would be cleared in 5 years. Yet even now, there is an uneven impact across the various jurisdictions in the country (Roma Civil Monitor: France, November 2018).

In the case of health, it was seen that the lack of domiciliation (which means that the dwelling place is not recognised as the official address) was a significant barrier with regard to obtaining health insurance. NGOs like Doctors of the World have shown that there exists a linkage between recurring eviction and its negative impact on health. In the case of Roma children who live in poor housing conditions, schooling becomes a big problem. In a study conducted by the Collective for the Rights of Roma Children in Education (CDERE) in 2016, it was seen that 53% of the interviewed adolescents were not going to school. Administrative procedures like registration become impediments in the quest for a child's education. In France, it is apparent that anti-

<sup>153</sup> Law No. 2017-86 of 27 January 2017 Regarding Equality and Citizenship consists of 3 themes: emancipation of youth and encouraging community service, encouraging intermingling of social classes, and combating inequality and discrimination.

Gypsyism constitutes a big part of the administrative and political apathy towards the Roma (Roma Civil Monitor: France, November 2018).

To conclude, this chapter has enumerated how it is a fact that despite the long history of the presence of the Roma in various countries in Europe, a majority of Roma still live on the margins of society. They continue to face massive discrimination in terms of schooling, housing, health and employment; in

addition to also facing harassment at the hands of law enforcement. Despite the policies of various countries towards integration, the fact often remains that they continue to be victims of denied rights. It is to combat this extreme backwardness and underdevelopment that the EU had promoted both the FCNM and the NRIS to ensure the rights of the Roma are protected and they progress socio-economically. However, the lens of prejudice through which the Roma are viewed is widespread. Rumours and fake news stories have often been weaponised in recent years to incite instances of violent attacks and reprisals against the Roma.