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### Authors

FitzGerald, David Scott  
Cook-Martín, David  
García, Angela S.  
et al.

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## Can you become one of us? A historical comparison of legal selection of 'assimilable' immigrants in Europe and the Americas

David S. FitzGerald<sup>a</sup>, David Cook-Martín<sup>b</sup>, Angela S. García<sup>c</sup> and Rawan Arar<sup>a</sup>

<sup>a</sup>Department of Sociology, University of California, San Diego, CA, USA; <sup>b</sup>Department of Sociology, Grinnell College, Grinnell, IA, USA; <sup>c</sup>School of Social Service Administration, University of Chicago, Chicago, IL, USA

### ABSTRACT

Pre-arrival integration tests used by European countries suggest discriminatory measures subtly persist in immigration laws. This paper draws on a comparison across the Americas and Europe to identify and explain historical continuities and discontinuities in 'assimilability' admissions requirements. We attribute legal shifts at the turn of the twenty-first century to the institutionalised delegitimation of biological racism and the rise of permanent settlement immigration to Europe. Efforts to reduce Muslim immigration largely motivate contemporary European policies, but these policies test putative individual capacity to integrate rather than inferring it from a racial group categorisation, as did historical precedents in the Americas.

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## Introduction

Migration scholars maintain a classic division between *immigration* policy – the selection of who can enter the territory, and *immigrant* policy – how to integrate newcomers (Hammar 1989). Different institutions and laws typically regulate these policy realms. Yet an increasing number of Western European countries mandate tests of prospective immigrants' assimilability, or ability to integrate culturally, before they even arrive. Scholars claim this shift is 'a European invention' that fuses 'immigration control with immigrant integration concerns' (Joppke 2013, 3) and call it 'a brand new concept in worldwide migration' (Orgad 2010, 71), 'a recent invention' (Bonjour 2014, 206), and 'a relatively new idea' (Goodman 2011, 237; see also Groenendijk 2011, 3).

All states have some official criteria for selecting immigrants. These have included race, language, religion, level of education, ideology, moral character, family ties, good health, and occupation. How new is the logic and form of European assimilability laws? What do shifts imply about whether liberal states apply illiberal criteria of selection? This article answers these questions by expanding the temporal scope of comparison back to the nineteenth century and broadening case selection from Europe to the Americas.

We first show that explicit assimilability requirements in territorial admission have a long history in the Western Hemisphere. Policies of assimilability, both historical and

contemporary, are motivated by the desire to avoid international and domestic conflicts that accompany discrimination against named groups. Unlike historical precedents in the Americas, the contemporary European approach is not based on group-level racial categorisation, but rather an *individual's* supposed capacity to integrate. That capacity is considered culturally achievable rather than biologically determined as it was in the past, though political entrepreneurs often claim integration comes easier for certain cultural groups, namely non-Muslims (Stolcke 1999). Assimilability policies have shifted from asking potential immigrants 'who *are* you?' to 'who can you *become*?' We attribute this shift to the institutionalised delegitimisation of biological racism and the rise of permanent immigrant settlement in Europe. We conclude that while a return to explicit racial restriction is unlikely, European pre-arrival integration policies are subtly aimed at ethnic selection.

### National integration

The nation-state is a way of organising politics in which each state claims to represent one nation in one territory. Unlike empires, nation-states value cultural commonalities that constitute nationhood. Naturalisation requirements test whether foreigners who seek to become members of the nation have demonstrated sufficient integration since their arrival to the state's territory (Brubaker 1992). Common means of demonstrating assimilation include long periods of residence, competence in the national language, and increasingly, tests of the 'national culture' and/or practical knowledge of civics (Howard 2009; Janoski 2010; Joppke 2013; Vink and Bauböck 2013). Pre-arrival integration requirements shift this test outward, from the internal boundary between aliens and citizens that is governed by naturalisation requirements, to the territorial borders of the state governed by admissions requirements.

The organisation of both migrant sending and receiving countries into nation-states drives receiving countries' policies of assimilation in three different ways. Immigrants challenge the alignment between a state and the people living on its territory who form the nation. Prospective citizens meet a higher level of scrutiny and are screened by their perceived ability to become part of the nation (Brubaker 1992; Carens 2013). The boundary of integration is shifted outward to admissions policy to avoid weakening the link between permanent residence on the territory and membership in the nation.

Second, states have strong incentives to admit people who will be good members of the society. In all but the most despotic states, and certainly in all liberal democracies, individuals enjoy significant rights of 'territorial personhood'. While states can exclude any foreigner from admission, they grant significant (though not equal) rights to individuals present in the territory. These rights may increase with a permanent residency status that falls short of citizenship (Motomura 2006). Regardless of whether immigrants become legal citizens, they gain partial membership rights from the state by virtue of their territorial presence over time. Thus, liberal nation-states have strong incentives to admit only individuals that they accept as potentially permanent members of society.

Finally, in many of the world's source areas of mass emigration, nation-states have replaced other forms of government, such as empires and colonies. Nation-states that experience emigration contend with the challenge of maintaining a robust sense of nationhood when their citizens leave. In a global system of nation-states, emigration countries

are sensitive to the humiliation of having their citizens excluded by another state. Inter-governmental organisations such as the UN are a forum in which countries seek redress for such perceived slights. Therefore, receiving countries have an incentive to select in a way that avoids the international and domestic conflicts associated with blatant discrimination against particular nationalities. Assimilability is a criterion that allows receiving countries to define the desired characteristics of prospective immigrants while reducing conflicts with sending countries (Cook-Martín 2013; FitzGerald and Cook-Martín 2014).

A comparative analysis of policies in Western Europe and the Americas shows that techniques of controlling the immigration/integration nexus moved away from overt racial selection of immigrants, wherein phenotype and/or notions of inherited, immutable biological characteristics were the bases of distinction. However, ethnocentrism continues to shape policies of immigration (Stolcke 1999). We conceive of ethnic markers as a broad umbrella term that includes distinctions between ‘us’ and ‘them’ based on a shared history, traditions, native language, phenotype, or ascribed religion (Wimmer 2008). Notions of what constitutes ethnic boundaries can change over time. For example, although Islam is a world religion with adherents from a wide variety of cultural backgrounds, phenotypes, national origins, and sects, Muslims in Europe are increasingly treated as a quasi-ethnic group subject to widespread discrimination (Zolberg and Woon 1999; Brubaker 2013; Foner 2015). Islam has become a master category in the public sphere that subsumes other possible categorisations. Anti-Muslim sentiment remained at the forefront of immigration debates in Europe fuelled by the mass immigration of asylum seekers beginning in 2015, with the Slovakian and Hungarian governments announcing that they would not accept Muslim refugees for resettlement (Rivett-Carnac 2015). We argue that ethnicised notions that certain groups (mainly Muslims) are not assimilable are among the primary factors that *motivate* contemporary European policies. Given the international delegitimation of using immutable, ascribed racial categories as the basis of exclusion, *testing* is based on the logic that assimilability is an individual cultural achievement.

### Terms, data, and methods

Assimilability refers to the positive ability to integrate. Inassimilability is its negative flipside. In Latin America, the Spanish *asimilable* and *adaptable* are recurring terms in discussions of desirable immigrants. In Europe, *integration* is more common than *assimilation* in part because the former is less coloured by the U.S. immigrant experience and European histories of coercive assimilation. Many scholars claim the concepts are different because assimilation is a one-way shift placing the burden of change on immigrants, whereas integration implies mutual accommodation between immigrant and host society. These claims misrepresent scholarly writings on assimilation dating as far back as the 1960s. In practice, scholarship on integration and assimilation typically has the same empirical indicators (Favell 2000; FitzGerald 2014). We recognise that assimilation and integration sometimes have a contextually specific political meaning. Analytically, however, we use assimilability and capacity to integrate interchangeably. Both concepts centre on destination state assessments of immigrants’ prospects for becoming more like national insiders. A common vocabulary enables comparisons across time and case.

Our findings are based on three stages of discovery. In the first stage, we collected all laws of immigration from the year of a country's independence to 2010 in Western Hemisphere countries that have been independent for most of the twentieth century (Argentina, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, U.S.A., Uruguay, and Venezuela). The Western Hemisphere was the major destination for overseas migration during this period (McKeown 2004). The laws were coded for explicit selection of immigrants along the grounds of being 'assimilable', 'integratable', or 'suitable'. Both positive preferences (for assimilable immigrants) and negative discrimination (against inassimilable immigrants) were coded. For the sake of consistency, we coded only laws that were publicly available at the time that they were enacted.

In the second stage, to understand the origins of the law and the meaning and logic of these categories, we conducted archival work and analysed legislative debates in the primary immigrant-receiving countries of Argentina, Brazil, Canada, Cuba, and the U.S.A. We added Mexico for theoretical reasons, because it received few immigrants yet developed an extensive policy for their selection. Additional analysis of the records of international organisations showed how ideas and policies of assimilability spread among countries.

In the third stage of discovery, we analysed contemporary pre-arrival integration policies in Europe to assess the extent to which these putatively novel policies are new and to explain similarities and differences with precursors in the Western Hemisphere. We reviewed laws and immigration policy documents in Austria, Denmark, France, Germany, the Netherlands, and the UK, all of which made linguistic or cultural integration a requirement of admission for select categories of immigrants between 1990 and 2015.

In the analysis that follows, we focus on laws that explicitly establish assimilability as a condition of entry. These conditions may be met abroad, on arrival, or immediately after arrival. The logic of these policies is to assess the degree to which an immigrant is capable of assimilating, not to measure progress towards assimilation in the destination country, as naturalisation tests have routinely done for decades.

## Findings and discussion

Tests of assimilability at the point of admission have a long history. By the mid-twentieth century, Canada and half of Latin America had laws explicitly favouring the 'assimilable' and/or keeping out the 'inassimilable'. The policies were designed to promote the immigration of certain racial groups and keep out others while appearing neutral. Below we show that assimilability tests in this period used language as a racial proxy before adopting other racial and cultural criteria.

Contemporary policies in Germany, the Netherlands, the UK, Austria, Denmark, and France that require national language and/or cultural knowledge tests as a condition of entry were adopted, like their Western Hemisphere predecessors, to discourage the immigration of unwanted groups without explicitly naming ethnic categories. The primary difference in the contemporary European policies is that the tests are based on individual, rather than group, categorisations, and the ability to integrate is now considered mutable even if it is differentially distributed across cultural groups. While we use ethnicity as an umbrella category to describe we/they distinctions made on numerous potential indicia

including religion and phenotype, the implications for passing an admissions test are distinct. It is very difficult to cross an ethnic boundary and ‘pass’ when the distinction is read from the body (García 2014). Where the axis of distinction is religious, conversion may be possible. Even in the absence of conversion, it is easier to moderate the degree of religiosity or visible religiosity. In sum, it is easier to pass religiously motivated rather than strictly racial tests.

## *Assimilability in the Americas*

### *Language tests*

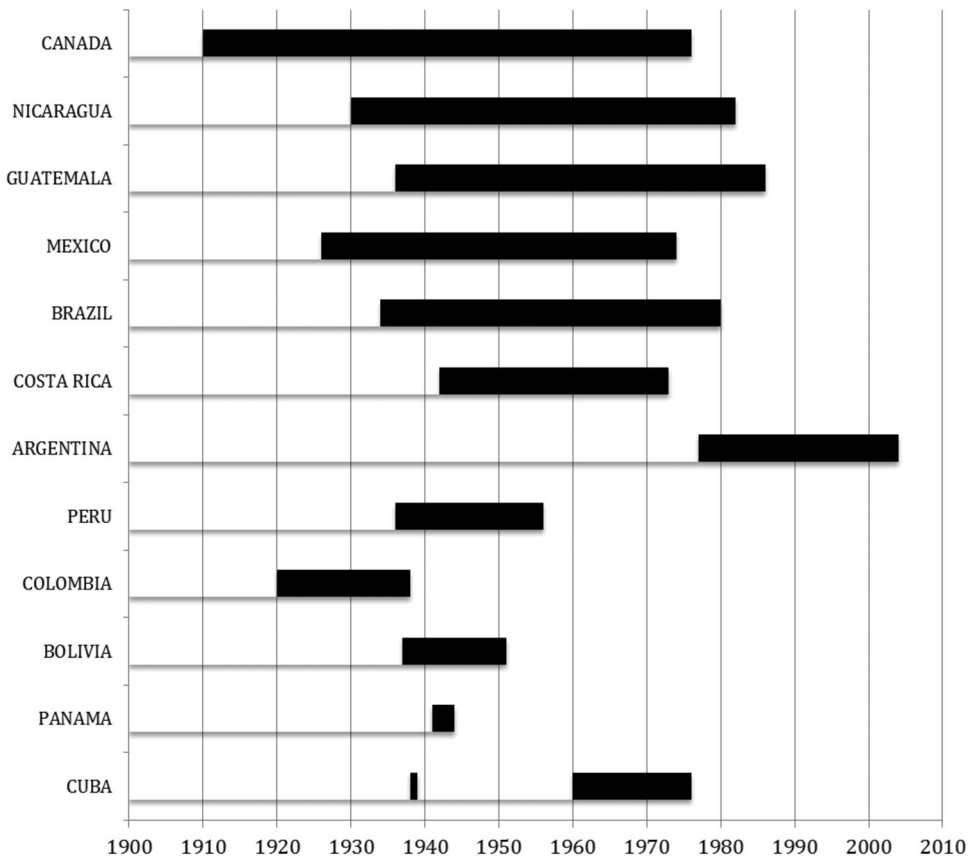
Since the late nineteenth century, governments have experimented with language tests to select assimilable immigrants at the point of admission. The U.S.A. pioneered literacy tests as racial proxies. Senator Henry Cabot Lodge explained in 1896 that these tests would encourage assimilation by bearing more heavily on less desired immigrants – Italians, Russians, Poles, Hungarians, and ‘Asiatics’ – and more lightly on English-speaking immigrants, Germans, Scandinavians, and French (Congressional Record 1895–1896, 2817–2820).

The parliament of Natal adopted the U.S. literacy test model in 1897 with the modification that immigrants be literate in a European language. The purpose was to screen out Asian immigrants surreptitiously without creating racial conflicts within the British Empire or diplomatic problems between the British Empire and China or Japan. The British colonial government then promoted the ‘Natal formula’, which was adopted in Australia, New Zealand, and South Africa (Lake and Reynolds 2008). In 1919, Canada required literacy in any language (*An Act to amend the Immigration Act*, S.C. 1919, c.25). To restrict Afro-Caribbean immigration, Cuba banned non-Spanish speakers, with limited exceptions, in 1931 (Circular no. 11,940 of 15 May 1931).

Individual literacy tests did not effectively screen out the targeted ethnic groups. In the U.S. case, rising educational levels in countries of origin made it easier for southern and eastern Europeans to pass the tests (Tichenor 2002). Policy-makers thus turned to other instruments to attract desired ethnic groups while excluding the unwanted. These included national-origin quotas in the U.S.A., Brazil, and Mexico, explicit racial restrictions on Chinese in all anglophone settler countries and 18 Latin American countries, and deliberately vague requirements of assimilability in 12 Western Hemisphere countries (McKeown 2008; FitzGerald and Cook-Martín 2014).

### *Ethnoracial assimilability*

Canada was the first country in the Western Hemisphere, and the first of which we are aware anywhere, to explicitly establish inassimilability as grounds for exclusion. The Immigration Act of 1910 prohibited the landing of ‘immigrants belonging to any race deemed unsuitable to the climate or requirements of Canada’. Amendments introduced in 1919 further authorised limiting the entrance of immigrants ‘deemed undesirable owing to their peculiar customs, habits, modes of life and methods of holding property, and *because of their probable inability to become readily assimilated*’ (P.C. 1203 [1919], our emphasis). Other countries adopted Canada’s approach. The laws did not explicitly name the main targets of discrimination – West Indians and Asian Indians – because the Canadian government aimed to avoid rifts within the British Empire. The exceptions to the policy of not naming inassimilable groups were the Mennonites, Hutterites, and



**Figure 1.** Countries in the Americas with 'Assimilability' Immigration Provisions, 1910–2010.

Doukhobors, who, as religious minorities persecuted in Europe, could be publicly targeted without a diplomatic cost (Kelley and Trebilcock 2010).

Latin American policy-makers viewed European immigrants as seed for improving the racial stock of national populations dominated by people of indigenous and/or African ancestry (Stepan 1991; Stern 1999). Colombia led the way for establishing negative discrimination against those considered inassimilable and positive preferences for immigrants that would supposedly better the population. Law no. 48 of 3 November 1920 prohibited the entry of 'elements that for their ethnic, organic, or racial conditions are objectionable for the nationality and the better development of the race'. Figure 1 shows that 11 Latin American countries explicitly enacted assimilability preferences or discrimination.

### *From biology to culture*

Beginning in the 1940s and 1950s, most countries in the Americas moved away from selecting immigrants by overtly racial criteria and towards selection by cultural assimilability, though in practice preferences for Western Europeans and restrictions against Asians and blacks endured. Selection moved from named ethnoracial groups to an *individual's* supposed fitness. This criterion of individual assimilability gained hemispheric

prominence in 1943 at the First Inter-American Demographic Congress in Mexico City. Discussions of the selection of immigrants shifted away from hard eugenic racism as a standard of cultural assimilation emerged (Primer Congreso Demográfico Interamericano 1944, 16). The language of social maladaptation replaced the language of undesirability, which had been the euphemistic term used to exclude Jews, Arabs, blacks, and Asians. The ‘maladapted’ were problematic by this logic not because of their biological origins, but because of their unwillingness to assimilate. Immigration-related laws in Mexico (1947), Canada (1950), Chile (1953), Cuba (1960), and Argentina (1977) included some form of explicit cultural assimilability criterion. Unlike the earlier versions of the laws in these countries or the laws in other countries shown in [Figure 1](#), assimilability became construed in cultural terms that were not apparently linked to racial categorisations. For example, the 1950 Canadian order-in-council authorised restriction of immigrants on account of their ‘ethnic group’, rather than ‘race’, as previous laws had established (FitzGerald and Cook-Martín 2014). Earlier assimilability categories in all cases reflected a hard, ascribed, racial line that could not be breached.

This policy shift mirrored a broader transformation in the colloquial usage of ‘racism’ that used culture rather than biology to explain hierarchical differences (Banton 1987). The decline of biologically racist criteria in the selection of immigrants rose from a constellation of geopolitical factors that allowed Latin American, Asian, and African countries to collectively push for human rights and an end to discrimination in immigration law around the Second World War and into the Cold War. These less powerful countries used existing intergovernmental venues to link their agenda to broader geopolitical and diplomatic interests of the great powers (FitzGerald and Cook-Martín 2014).

### *Language in point systems*

The notion that certain social groups fit into destination societies more easily than others continues to inform immigration policies on both sides of the Atlantic, even after the end of explicitly racist immigration laws (Zolberg and Woon 1999). In 1967, Canada became the first country to introduce a ‘point system’ that selects immigrants by awarding points for individual characteristics, thus replacing previous preferences for European and U.S. immigrants (P.C. 1967–1616). The point system rates applicants by their knowledge of English and French, level of education and training, labour market demand for their occupation, arranged employment, personal suitability, presence of relatives in Canada, destination within Canada, and age. Yasmeeen (1998) argues that Quebec’s francophone preferences are ethnically discriminatory, but the francophone preferences have worked mostly to the benefit of immigrants from countries formerly controlled by France such as Haiti, Lebanon, and Senegal. The preferences for English speakers mostly benefit people from countries formerly colonised by Britain – an advantage enjoyed by Hongkongers over mainland Chinese, Jamaicans over Dominicans, and Indians over Thais (FitzGerald and Cook-Martín 2014).

The Canadian point system only applies to permanent immigrants. Temporary migrants are not favoured if they speak French or English. In fact, interviews with agricultural employers in Ontario show that they often prefer temporary workers who do *not* speak English. These employees are expected to complain less and form fewer social ties that would motivate overstaying their visas (Hennebry and Preibisch 2010). Linguistic assimilability is only considered desirable for *permanent* settlement.



In the U.S.A., the failed Comprehensive Immigration Reform Act of 2007 would have created a point system favouring English fluency, high levels of education, the ability to fill jobs in occupational sectors with shortages of native workers, and being the adult child or sibling of U.S. citizens or permanent residents. Another failed bill, the Border Security, Economic Opportunity, and Immigration Modernization Act of 2013, proposed a similar point system. Both measures would have benefited Canadian and British applicants, but given the much larger wage differentials between the U.S.A. and most Asian countries, English-language preferences would have been more likely to draw immigration from India and the Philippines, where English is widely spoken as a second language (Papademetriou, Batalova, and Gelatt 2007).

Assimilability requirements in Western Hemisphere countries suggest several conclusions about their causes and variations in form. The expectation of permanent immigration, in which yesterday's foreigners would become tomorrow's citizens, generated the assimilability requirements. The governments of these nation-states sought to attract people capable of becoming good citizens because they shared a national language and culture. These ideas were shot through with racialised assumptions. The early language tests were motivated by racism but were often ineffective. Therefore, individual language tests were replaced with categorical restrictions based on race, nationality, or 'assimilability'. Racialised categories meant that eligibility was defined by an assessment of who intending immigrants were according to ascribed characteristics. As post-colonial nation-states of emigration formed after the Second World War, an international norm against racist selection of immigrants spread. The deliberately ambiguous language of assimilability allowed softer forms of ethnic selection to continue while generating fewer diplomatic problems for countries of immigration.

## *Assimilability in Western Europe*

### *Pre-arrival integration tests*

At the turn of the twenty-first century, Germany, the UK, the Netherlands, France, Denmark, and Austria developed immigrant selection policies that raised concerns of ethnic discrimination (Goodman 2011; Kofman, Saharso, and Vacchelli 2013). Some policy-makers and academics argued more generally that the tests were an illegitimate form of 'repressive liberalism' or the 'illiberal practice' of liberal states (Joppke 2007; Guild, Groenendijk, and Carrera 2009). Defining the content of a common national identity is a hazardous enterprise for liberalism, which emphasises the rights of the individual. The tests also raise normative questions about how far liberal democracies should express a majoritarian will, in this case by defining the characteristics of the nation, without treading on protections for minorities. On the other hand, tests can screen potential new members of the polity to ensure that they have the human and cultural capital and commitment to take part in a civic-republican citizenry along the terms demanded by the majority (Mouritsen 2012).

In the six European cases, policies are intended to select immigrants deemed capable of integrating quickly. Tests of applicants' knowledge of the national language are common across the cases. The Dutch and Danish also test knowledge about the receiving society. The French evaluation includes an assessment of 'Republican values'. Germany, the UK, and the Netherlands exempt certain non-EU nationalities from the integration

requirement in a way that suggests thinly disguised ethnic preferences mixed with foreign policy considerations. The discourse around the enactment of pre-arrival integration laws and their effects on subsequent immigration flows suggest the tests were designed in part to deter Muslims. As discussed below, we do not claim that the policies were designed exclusively to deter Muslims, but rather, that this was a principal driver.

Figure 2 shows the onset of pre-arrival integration requirements. Scholars emphasise the role of the Netherlands as a model for policy diffusion (Goodman 2011; Bonjour 2014), but Germany introduced such requirements in a limited fashion with the 1990 Aliens Act. The 1990 law required children aged 16–18 years seeking to join their parents to prove intermediate-level German skills (Seveker and Walter 2010). A different logic to test the cultural ‘authenticity’ of ethnic Germans (*Aussiedler*) from the former Soviet Union, a group that had preferential treatment under the 1953 Federal Expellee Act, resulted in the creation of another German language test in 1997, which was expanded in 2005.

As shown in Table 1, the Netherlands was the first European country to insist on the pre-entry integration of a broad class of immigrants. The Dutch Civic Integration Abroad Act of 2006 included a test with questions about Dutch language and life that had to be taken abroad at a diplomatic post, or later, by computer on-line. This integration test stands out for its breadth, as it includes questions about Dutch law, democracy, history, culture, religion, geography, housing, transport, education, health care, and work (Strik, Luiten, and van Oers 2010). The UK began requiring English-language pre-entry requirements for religious ministers in 2004 and highly skilled labour migrants in 2006, while pre-entry integration requirements for non-European spouses were announced in 2007 and applied in 2010. Germany adopted broad family reunification language tests in 2007 that differed sharply from the logic of the earlier tests of *Aussiedler*. Rather than asking

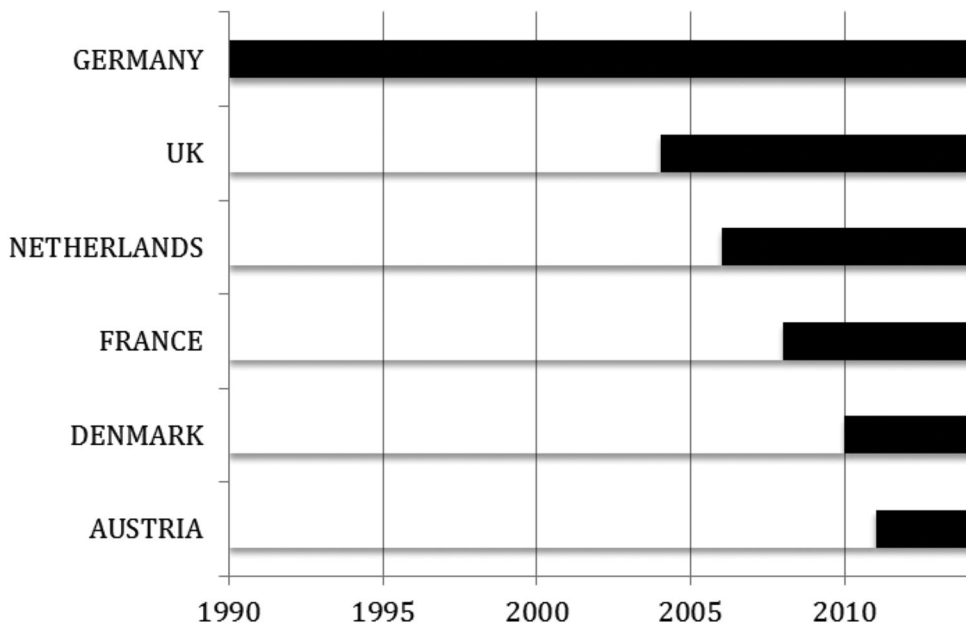


Figure 2. European countries with pre-arrival integration provisions, 1990–2015.

**Table 1.** Pre-arrival integration provisions in six European countries active in 2015.

Country	Act
Germany	Directives Implementation Act 2007 (enforced 2007).
The Exam	Requires communication at the A1 level by testing German listening, speaking, reading, and writing ability.
Exemption	High-skilled migrants, foreigners with a permanent right to reside in other EU countries, and citizens of Australia, Israel, Japan, Canada, Turkey, South Korea, New Zealand, and the U.S.A. (Federal Office for Migration and Refugees 2015).
Netherlands	Civic Integration Abroad 2005 (enforced 2006).
The Exam	Requires communication at the A1 level by testing Dutch reading and speaking ability. The Dutch society exam covers geography, history, politics, and information about housing, education, and the labour market (Strik, Luiten, and van Oers 2010, 16).
Exemption	Citizens of Australia, Canada, Japan, Monaco, New Zealand, South Korea, Turkey, U.S.A., Vatican City, and Switzerland; and those who have completed a Dutch education in Belgium, Surinam, Aruba, Curaçao, Sint Maarten, Bonaire, St. Eustatius, or Saba.
UK	Immigration Rules (paragraph 281) 2010 (enforced 2010).
The Exam	Requires prospective family reunification immigrants to communicate at the A1 level by testing English-speaking ability.
Exemption	Dependents of high-skilled migrants, those with certain academic qualifications, those 65 and older, and citizens of Antigua and Barbuda, Australia, the Bahamas, Barbados, Belize, Canada, Dominica, Grenada, Guyana, Jamaica, New Zealand, St Kitts and Nevis, St Lucia, St Vincent and the Grenadines, Trinidad and Tobago, and the U.S.A. (UK Annex FM 1.21: English).
Austria	NAPI 2010 (enforced 2011).
The Exam	Requires prospective immigrants to communicate at the A1 level by testing German writing and speaking ability. After arrival language acquisition continues to be tested with an 'integration agreement', which requires A2 level skills.
Exemption	Turkish family members, minors under age 14, family members of high-skilled migrants, and those who have met German language proficiency at the A2 or B1 level are exempt from pre-arrival integration requirements (Scholten et al. 2012, 23; Kraler et al. 2013, 19).
Denmark	Aliens Act 2007 (enforced 2010).
The Exam	Immigrants granted residence in Denmark are required to pass the Danish language exam at the A1 level within six months of arrival. Only religious workers are required to pass a knowledge test covering the ban on circumcision and forced marriages as well as principles of democracy, freedom, and gender equality (New to Denmark 2015).
Exemption	Those with children in Denmark who have fostered an attachment to the country or those who have already acquired a sound knowledge of Danish and Denmark (Ersbøll and Gravesen 2010, 20). Turkish nationals must have a residence permit and be economically active within six months to qualify for an exemption.
France	Code of Foreigners' Entry and Stay and of the Right of Asylum Code 2008 (enforced 2008).
The Exam	Prospective immigrants are evaluated on knowledge of the French language and 'Republican values'. Failing to prove such knowledge does not prevent admissions, but immigrants are required to take further steps toward integration upon arrival. The exam is free.
Exemption	Those who have completed three years of secondary study in French schools, those who have completed one year of college in France, and applicants below 16 and over 65 (Intec Project: France 2010, 8).

*are you really German?*, the new tests asked, *can you become German?* Austria adopted pre-entry language requirements in 2011.

Variations in the timing and consequences of integration tests distinguish France and Denmark from other countries. France enacted a requirement in 2008 to assess immigrants' knowledge of French language and cultural values. The government provides a free French language course to prospective immigrants (Journal Officiel 2007). Those who fail are not prevented from entering, but are required to take a three-hour course on 'Republican values'. Immigrants are also asked to sign an integration contract, but they do not have to pass a test to enter or remain. The French case stands out for its orientation towards providing practical integration knowledge in the classes (Pascouau 2010).

Denmark adopted pre-entry integration provisions in 2007 that required non-EU family members and religious leaders to pass an exam about Danish language and society. Family reunification migrants are no longer expected to pass the cultural knowledge exam, but the requirement still applies to religious leaders.<sup>1</sup> While the law does not

explicitly refer to Muslim religious leaders, imams are presumably the target. To reduce the costs of administering the exam abroad, the policy changed to allow testing in Denmark within six months of arrival. To promote compliance with these post-entry integration requirements, visas are issued for six-month terms, not to be extended unless the test is passed. In the case of failure, an additional three-month grace period may be allotted (Groenendijk 2011; Bonjour 2014; Danish Immigration Service 2014). While there is some variation among the cases (Mouritsen 2012), in all six countries, broad categories of intending immigrants are required to demonstrate that they have the capacity to integrate before, on, or just after arrival.

### *Ethnic selection of permanent immigrants*

The timing of the European integration policies coincides with a shift from temporary to permanent immigration. European countries generally did not become destinations of large-scale immigration from outside the continent until after the Second World War, a period characterised by temporary ‘guestworker’ programmes and post-colonial migration. Since the 1970s, family reunification has become the principal avenue of entry into the EU (Hatton and Williamson 2005; Eurostat 2015). The public’s realisation that temporary migration has become permanent generated intense interest among policy-makers in the selection of ‘assimilable’ immigrants. Many ‘multicultural policies’ in Europe – such as the provision of schooling in Arabic for the children of Arab guestworkers – were predicated on the assumption that these populations were temporary sojourners. As immigrants settled and had children, these types of policies have come under attack in Western Europe, and integration has become a prominent topic of public discourse (Grillo 2007).

We argue that European pre-arrival integration tests are a vehicle for subtle forms of ethnic selection of permanent immigrants. Three sources of evidence support this contention: motivations expressed in framing policy, exemptions that privilege specific nationalities, and the effects of laws on the national-origin composition of new immigration. Public and even official discourse frame pre-arrival integration policies as a way to reduce family reunification and to discourage (especially Muslim) immigrants from seeking spouses in countries of origin; the presumption being that this delays integration (Goodman 2011; Bonjour 2014, 209). Government officials and journalists who justify restrictive immigration policies often portray Muslim women as docile victims of Muslim men in Europe (Kofman, Saharso, and Vacchelli 2013; Kraler et al. 2013).

An examination of nationalities exempt from integration requirements suggests that pre-arrival integration laws are partly motivated by ethnic preferences. Germany, the UK, and the Netherlands use positive preferences that exempt nationals of rich, predominantly white, and non-Muslim countries from taking the tests. An analysis of immigrant admissions figures in the six countries before and after the advent of integration policies show that the laws coincide with a decrease in Muslim immigration and that they are achieving the desired effect.

### *Ethnoreligious motivations*

Government discussions of integration policies in the six European countries have focused on resolving the ‘problem’ of integrating Muslims – even if laws are couched in facially neutral terms. The Memorandum of Understanding that framed the 2006 Dutch law,

for instance, stated that immigration and integration were inherently linked and that 'immigration is not well regulated if it takes no consideration of the conditions for integration of newcomers'. The Memorandum's language shows a strong affinity with older Western Hemisphere notions of assimilability and inassimilability, specifying that restricting 'non-integratable' immigrants will 'reduce the integration problem'. It also explicitly names Morocco and Turkey as source countries of immigrants who do not integrate well because of their poor Dutch language ability, low levels of education, unemployment or low-skilled jobs, and the marginalised position of women (Scholten et al. 2012).

Similarly, the Dutch preparatory materials provided to prospective immigrants go beyond their ostensive purpose of increasing cultural and linguistic knowledge. For example, a video emphasises austere living conditions for Turks and Moroccans in public housing and the challenges of cold weather and unfamiliar social norms. It also includes images likely intended to discourage conservative Muslim immigrants from settling, including a topless woman on the beach, two gay men kissing in a park, and a dog jumping on an immigrant invited to a party.<sup>2</sup> For some intending immigrants, the burden of integration in the Dutch test is exacerbated by the lack of study materials in their native language. In 2007, a Dutch court found that an applicant from Eritrea needed to first learn English in order to learn Dutch (Strik, Luiten, and van Oers 2010, 19–20; Strik, Böcker, et al. 2010, 12).

In Germany, the discourse surrounding the 2007 Directives Implementation Act suggests an intent to target Turkish wives – perceived as culturally conservative and slow to integrate – and to prevent forced marriages. Seveker and Walter (2010) identify the 'honour' killing of Hatun Sürücü as a key event that drove the debate about forced marriages. Sürücü, a Kurdish immigrant from Turkey, was killed by her brother after she allegedly rejected forced marriage. As with preventing forced marriage, language acquisition was framed as a human rights initiative to allow immigrant women to lead independent lives. In the state of Baden-Württemberg, a 2006 naturalisation test of 'German values' asked immigrants questions about patriarchy and forced marriage. While what was widely called the 'Muslim test' applied to naturalisation rather than admissions, it is further evidence of the Islamophobic context in which both were created (van Oers 2010, 75–76).

In the UK, Scholten and colleagues (2012) trace the origins of the pre-integration law to the early 2000s, when the interlinked issues of forced marriage and the integration of foreign-born women from Muslim countries emerged. Following the 2001 ethnic riots in Bradford, Labour MP Ann Cryer called for restrictions on non-English-speaking immigrant spouses, particularly those from South Asia: 'It just happens that the Bangladeshi and the Pakistani community are Muslims and they happen to be the people who persist in the practice of bringing in husbands and wives from the subcontinent,' she said (BBC 2001). The Home Office and Foreign and Commonwealth Office established a Forced Marriage Unit in 2005. Two years later, the government produced a report that suggested raising the minimum age of the spouse and sponsor and introducing an English-language test to prevent forced marriage. In 2010, Minister of State for Immigration Damian Green announced the pre-arrival English-language requirement, arguing that 'speaking English promotes integration ... The new rules will help ensure that migrant spouses are able to participate in British life' (Home Office 2010).

Muslim immigrants were also the targets of Austria's 2010 National Action Plan on Integration (NAPI), adopted by parliament in 2011. The NAPI emphasised that integration is an individual achievement based on learning German, Austrian culture, and economic self-sufficiency. Integration requirements are 'determined by factors such as origin, gender, social status, cultural or religious background of migrants, as well as belonging to a generation', the plan stated (Scholten et al. 2012, 22). The bill was intended to ensure that Austria attracted assimilable immigrants and emancipated women who came from patriarchal backgrounds, a euphemism widely interpreted to refer to conservative Muslims (Kraler et al. 2013; Bonjour 2014, 207).

The Danish language and knowledge test was adopted in 2007 and enacted in 2010. It was the latest in a series of policies beginning in 2002 aimed at restricting family reunification by raising the minimum age of sponsored immigrants' spouses and assessing the couples' ties to Denmark. In a 2002 brief, the Ministry of Integration presented the law to limit the immigration of 'non-Western immigrants' (Schmidt 2014). As Kofman (2004, 254) summarises, 'It is clear that this is an attack against endogenous marriage, especially high amongst Turkish and North African populations, and an attempt to contain the growth of Islamic communities.' A 2006 agreement between Denmark's coalition government and the conservative Danish People's Party promised to create new integration tests and to explore whether immigrants from the West could be exempted without violating binational agreements (Ersbøll 2010, 129). Though refugees and those with documented handicaps are exempt from pre-arrival integration requirements in the six EU countries, Denmark introduced tighter regulations that also apply to refugees in response to large numbers of asylum seekers from the Middle East in 2015 (Ministry of Immigration, Integration and Housing 2015). The Danish government bought advertisements in Lebanese newspapers that publicised new regulations to deter asylum seekers, including a 45% decrease in social benefits. Refugees must now meet language requirements to obtain residence permits (Duxbury 2015).

In France, President Nicolas Sarkozy introduced the 2008 language and cultural knowledge tests with the goal of reducing family reunification and encouraging high-skilled migration. Sarkozy proposed to follow the Dutch scheme (Le Monde 2006; Pascouau 2010), but the risk of a possible ruling by the Constitutional Court against requirements that would infringe on the EU Family Reunification Directive dissuaded him (Groenendijk 2011). The integration debate in French society has revolved around Islamic practices that reportedly lead to 'communitarianism' – the formation of groups that isolate themselves from society (Bonjour and Lettinga 2012, 4). These controversies centre on religious symbols such as head scarves. Laws aimed at enforcing integration within France have targeted Muslim women, including the 2004 law that banned 'ostentatious' religious symbols in public schools (Joppke and Torpey 2013).

### *Exemptions as ethnic preferences*

Positive preferences for particular ethnic groups are viewed as more legitimate, and remain more common, than negative ethnic discrimination against named groups (Joppke 2005; FitzGerald and Cook-Martín 2014). European policies exempt nationals of EU member states from integration tests in keeping with the core principles of freedom of mobility within the EU (Carrera 2009; Kostakopoulou 2010). Individuals who have been schooled abroad in the national language of the destination country are often exempted from

integration tests. In Germany, the Netherlands, and the UK, exemptions also apply to mostly rich, predominantly European-origin countries such as the U.S.A. The unequal treatment of third country nationals in the policies of Germany, the Netherlands, and the UK suggests positive preference for prospective migrants of specific origins.

In Germany, highly skilled workers, temporary migrants, those with humanitarian visas, and spouses of a sponsor from Australia, Israel, Japan, Canada, South Korea, New Zealand, and the U.S.A. are exempted from the language requirement (Federal Office for Migration and Refugees 2015). Seveker and Walter (2010) identify economic relations and migration policy-related interests as the logic behind these exemptions. Migrant organisations have denounced the unequal treatment of migrants from Turkey who had to take the exam when many other nationalities did not (Michalowski 2010, 191). Although the German law was meant to target Turks, in 2014, the European Court of Justice (ECJ) ruled that Turkish nationals must be exempt from the pre-arrival integration requirement, arguing that the government's justification, 'namely the prevention of forced marriages and the promotion of integration', was in the public interest but 'goes beyond what is necessary in order to attain the objective pursued' (Case C-138/13, paragraph 38). The court also stated that insufficient linguistic knowledge should not automatically disqualify Turkish nationals' applications for family reunification, but it did not assess the legality of pre-arrival requirements placed on non-Turkish nationals.

In the Netherlands, nationals of the European Economic Area countries and Australia, Canada, Japan, South Korea, New Zealand, and the U.S.A. are exempt from the requirement. The Memorandum of Understanding cited above states that nationals of these countries are exempt because they

come from countries that are comparable to the European countries in social, economic and political respects and for that reason do not lead to undesirable and uncontrollable migration flows to the Netherlands and to substantial integration problems in Dutch society.

Moreover, the memorandum states that demanding pre-entry tests for migrants from these countries would be 'potentially harmful to our foreign and economic relations'. Citizens of Dutch-speaking Suriname with a primary education in Suriname are also exempt. A Human Rights Watch report (2008, 16) critical of the Dutch tests concluded, 'In practice ... the test primarily affects Turks and Moroccans seeking to migrate ... for family reasons.' While Turks were originally required to take the exam, the ECJ ruled in April 2010 that the EEC-Turkey Agreement (1963) and Additional Protocol (1970) precluded new restrictions on Turkish rights to access the EU labour market, which included restrictions on the movement of Turks already admitted to the EU (Case C-92/07). The Dutch government responded by exempting Turkish nationals from pre-arrival integration requirements (Groenendijk 2011). However, it maintained the other nationality distinctions, despite a critical 2010 report by the UN Committee on the Elimination of Racial Discrimination that condemned the policy for racial discrimination in selecting immigrants (Strik, Luiten, and van Oers 2010, 24). The only temporary migrants required to complete an integration course are ministers of religion, a provision that presumably targets imams (Böcker and Strik 2011, 164).

In the UK tests, nationals of 16 English-speaking countries – Antigua, Australia, the Bahamas, Barbados, Belize, Canada, Dominica, Grenada, Guyana, Jamaica, New Zealand, St Kitts and Nevis, St Lucia, St Vincent and the Grenadines, Trinidad and

Tobago, and the U.S.A. – were exempt. These anglophone countries were the source of only 11.4% of migrants granted permission to enter the UK. Interestingly, major anglophone countries of immigration to Britain – India, Ghana, Malaysia, Nigeria, and Pakistan – were *not* exempt. With the partial exception of Ghana, all these non-exempted countries are major sources of Muslim immigration, unlike the primarily Christian countries that were exempted. A handful of other countries were originally exempted because the language test was not available in-country. However, this policy was abandoned in 2014, and immigrants from these countries were required to take the test at the nearest testing centre in a neighbouring country (Groenendijk 2011; Scholten et al. 2012; Bonjour 2014).

At least in Germany, the Netherlands, and the UK, nationality exemptions prefer people from predominantly white countries in anglophone settler societies and ‘honourary whites’ in Japan and South Korea (see Bonilla Silva 2004). The fact that these countries have high per capita GDPs could not alone explain their inclusion, as even richer countries in the Persian Gulf are left off the list. Neither are all the countries on the list major trading or diplomatic partners. For example, New Zealand’s nationals are exempted in Germany and the Netherlands. We do not argue that ethnicity is the *only* motivation for these policies. Exemptions may also reflect other concerns in bilateral relationships. Nevertheless, the patterns of exempted countries are consistent with an effort to use assimilability requirements at admission to shape the ethnic composition of the nation.

### *Discriminatory effects*

Following the implementation of the pre-integration laws, immigration from predominantly Muslim countries declined in all six cases except Denmark. At the same time, in Germany, the Netherlands, France, and Austria, overall immigration from outside the EU increased, so the decline in immigration from Muslim countries cannot be attributed to overall declines in immigration. In the UK, immigration from all categories fell, but immigration from predominantly Muslim countries fell further. While immigration from all nationalities generally increased after the laws went into effect in each country, immigration of Muslims generally decreased.

Table 2 depicts immigration from select nationalities to each of the European countries that have applied pre-entry integration requirements for the two years before implementation of a new law, during the implementation year, and for the two years following implementation. The six European countries do not collect statistics on the religion of immigrants. However, the selected nationalities represent the largest flows of nationals from Muslim-majority countries, which we use as a proxy for the immigration of Muslims. Afghans and Iraqis are not included in the analysis despite significant migration flows, primarily to Denmark and Austria, to avoid conflating refugees and asylum seekers with family reunification immigrants. Turkish immigration was not analysed in the Danish case because the pre-entry integration requirement does not apply to many Turkish nationals. Turkish immigrants are included in the Dutch case because the time period considered in Table 2 predates the Turkish exemption.

Table 2 suggests that in five of the six European countries, pre-entry integration measures contributed to the average decrease in migration flows from majority Muslim sending countries in the two-year-period after the enforcement of the laws compared to the two-year average before the laws were implemented. Germany accepted 18% fewer Turks



**Table 2.** Average percent change in immigration by select nationalities two years before and after the enforcement of pre-entry integration laws.

Country	Before pre-entry integration law		Year of enforcement	After pre-entry integration law		Percent change
	Year	Year		Year	Year	
Germany	2005	2006	2007	2008	2009	
Turks	36,019	29,589	26,694	26,653	27,212	-18%
All nationalities	576,301	558,467	574,752	573,815	606,314	4%
Netherlands	2004	2005	2006	2007	2008	
Turks	4088	3091	2768	2355	3299	-21%
Moroccans	3301	2077	1713	1233	1465	-50%
All nationalities	65,121	63,415	67,657	80,258	103,356	43%
France	2006	2007	2008	2009	2010	
Algerians	31,113	26,811	25,697	24,528	22,803	-18%
Moroccans	23,012	22,084	22,558	21,603	20,718	-6%
All nationalities	159,391	145,876	153,331	159,607	157,756	4%
Austria	2009	2010	2011	2012	2013	
Turks	4735	4258	3812	4088	4476	-5%
All nationalities	91,660	96,896	109,921	125,605	135,228	38%
UK	2008	2009	2010	2011	2012	
Pakistanis	12,596	22,714	21,382	14,810	13,016	-21%
Bangladeshis	4325	7116	6764	4584	3293	-31%
All nationalities	148,936	194,781	241,192	166,878	129,749	-14%
Denmark	2008	2009	2010	2011	2012	
Pakistanis	346	463	721	653	495	42%
Iranians	210	296	461	567	592	129%
All nationalities	37,018	31,957	33,442	34,572	35,490	2%

Source: OECD. Stat website (<http://bit.ly/2aZbO34>), Home Office's settlement tables at <http://bit.ly/2aZcd5x>.

even as the immigration of all nationalities increased by 4%. In the Netherlands, Turkish and Moroccan migration decreased by 21% and 50%, respectively, while all nationalities increased by 43%. In France, Algerian and Moroccan migration decreased by 18% and 6%, respectively, while migration from all nationalities increased by 4%. In Austria, Turkish migration decreased by 5% while migration from all nationalities increased by 38%. Migration flows to the UK from Pakistan and Bangladesh decreased by 21% and 31%, respectively, while migration flows from all nationalities only decreased by 14%.

The only apparent outlier in the dominant pattern is Denmark, where overall migration from all nationalities increased by 2% and immigration from Pakistan and Iran increased by 42% and 129%, respectively. However, the very low absolute numbers of Pakistani and Iranian immigrants arriving in Denmark between 2008 and 2012 (around 500 a year) suggests that earlier policies such as the 2002 law aimed at reducing family reunification had already achieved their purpose of reducing Muslim immigration (see Kofman 2004, 254). In 2001, the Danish government accepted 6499 family reunification immigrants. After the family reunification law went into effect in 2002, the number of admitted family reunification immigrants fell to 2344 (Schmidt 2014). Regardless of how the Danish case is interpreted, the broad pattern among the six European cases is that the pre-integration laws reduced Muslim immigration without affecting the overall numbers of immigrants.

## Conclusion

The tight linkage between immigration and integration requirements introduced in Germany, the Netherlands, the UK, Austria, Denmark, and France marked an important

shift in the policies of these countries driven by large-scale, permanent family reunification immigration. However, explicitly requiring evidence of assimilability via language tests as a condition of admission has a much longer and widespread history. Contemporary policies closely follow the logic of literacy tests in the late nineteenth and early twentieth centuries in anglophone settler countries and Cuba that preferred certain ethnic groups and excluded others without incurring the diplomatic costs of explicitly naming despised groups. Just as South Africa excluded Asians and the U.S.A. restricted southern Europeans without openly stating the intent in the law, these European countries attempt to restrict the number of Muslims by subterfuge.

A critical difference, however, is that contemporary pre-arrival integration policies do not create as hard an ethnic barrier as the older Western Hemisphere assimilability policies. Regardless of ethnic categorisation or religious affiliation, anyone with the financial and human capital can pass a European integration test. The capacity to integrate is assessed at the individual level rather than through bureaucratic assignment to immutable racial or national categories. Individuation is particularly evident in the Dutch case, where an online web portal called 'My integration' allows immigrants to register for and view their exams.<sup>3</sup>

Analysing the contemporary European tests in comparative-historical perspective sheds light on the extent to which liberal democracies, such as the six EU countries, continue to use hidden mechanisms of ethnic selection in their immigration laws. The European cases suggest two qualifiers to the general trajectory of deethnicisation in immigration policy (Joppke 2005; FitzGerald and Cook-Martín 2014). First, ethnic selection continues in thin disguise via mechanisms such as the pre-integration requirements that now target religious and cultural groups rather than supposed races. Second, positive preferences are much easier for governments to sustain than negative discrimination (Joppke 2005; FitzGerald and Cook-Martín 2014). While rights groups have condemned policies that exempt only certain non-EU countries from the integration requirements, they have typically not been successful at ending those exemptions. Positive preferences for nationals of certain countries, such as the U.S.A. and Canada, are not considered as repugnant as policies that would single out nationalities for negative discrimination. Thus, developing long lists of exempted countries is more politically acceptable than naming the actual targets of restriction. Our findings suggest the need for additional comparative research that examines the subtle forms of discrimination in selecting immigrants and the disproportionate impact of ostensibly neutral criteria on would-be immigrants of specific national, religious, and racial origins.

## Notes

1. Personal communication with Birgitte Borker Alberg from the 'Spousal Office' or Ægtefællekantoret, December 9, 2014.
2. <https://www.youtube.com/watch?v=7MjXf5Uzpl>. Generally, dogs are negatively regarded in Muslim societies.
3. <http://en.inburgeren.nl/footer/Regel-het-met-DUO.jsp#mijn-inburgering> (accessed December 8, 2015).

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