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**DOI**

[10.1016/j.polgeo.2016.11.011](https://doi.org/10.1016/j.polgeo.2016.11.011)

**Publication date**

2017

**Document Version**

Final published version

**Published in**

Political Geography

**License**

Article 25fa Dutch Copyright Act

[Link to publication](#)

**Citation for published version (APA):**

Uitermark, J., Hochstenbach, C., & van Gent, W. (2017). The statistical politics of exceptional territories. *Political Geography*, 57, 60-70. <https://doi.org/10.1016/j.polgeo.2016.11.011>

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## The statistical politics of exceptional territories



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### ARTICLE INFO

#### Article history:

Received 16 April 2016

Received in revised form

21 November 2016

Accepted 22 November 2016

Available online 14 December 2016

#### Keywords:

Biopolitics

Exclusion

State of exception

Urban policy

Segregation

Critical data studies

### ABSTRACT

The so-called Rotterdam Act enables municipal governments in the Netherlands to bar poor households with no or limited residential history in the metropolitan area from moving into certain neighborhoods. Although evidently at odds with principles of equality enshrined in law, the Act has emerged as a standard part of the policy tool kit. This article seeks to explain how the Rotterdam Act came to pass. Asking this question sets us on the path of reconstructing how *specific* urban areas suffering from *extraordinary* problems were identified and how using *exceptional* measures to exclude *specific* groups were instituted. In a word, we are interested in the construction of exceptionality. We show that the construction of exceptional territories is based on the interplay of discretionary power and statistical calculation. We discuss the wider relevance of our analysis to the emerging field of critical data studies and for understanding the links between sovereignty, territory and statistics in constitutional democracies.

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### 1. Introduction

The startling rise of the populist politician Pim Fortuyn shook Dutch politicians out of their slumber in 2002. Fortuyn made many provocative statements and proposals—especially regarding immigrants and Muslims—whom he feared were on the verge of taking over the Netherlands' big cities, especially his home town of Rotterdam. He said that attempts to improve deprived neighborhoods were doomed to fail unless they were supported by a dispersal policy to mitigate concentrations of ethnic minorities. In his tract on the "Islamification" of the Netherlands he proposed to bar "socially weak" households from moving into deprived neighborhoods (Fortuyn, 2001, p. 90). Fortuyn's plan was not without precedent. The first such plan was conceived in the 1970s in response to riots in the Afrikaander neighborhood of Rotterdam South. In August 1972, local residents and dock workers, cheered on by crowds, forcefully expelled guest workers from their pensions. As soon as the riot police had re-established control following six days of rioting, the municipal council quickly agreed on a dispersal policy for guest workers; the proportion of foreigners (Mediterranean guest workers and immigrants from the Antilles and Surinam) in the neighborhood population was to be capped at 5%. But parties

in the national parliament condemned Rotterdam's plans and the central government requested the Council of State (*Raad van State*, the judicial advisory council to the Dutch government) to forbid Rotterdam's policy, which it did (Bolt, 2004).

So when Fortuyn's *Leefbaar Rotterdam* (Livable Rotterdam) party won a landslide victory in the 2002 municipal elections, its leaders knew that curtailing the flow of poor immigrants into the city would be a political and legal minefield. In the words of Marco Pastors, the party's leader following Fortuyn's assassination, *Leefbaar's* Christian Democratic coalition partners would "have run away screaming" from any such proposals (cited in Tops, 2007, p. 86, our translation). But this was not the end of the matter. In 2003, the Rotterdam Statistics Office published a report predicting that native Dutch would be a minority in the city by 2017 (COS, 2003). The report was a watershed and led to protracted debate on how to best prevent poor immigrants from settling in Rotterdam. What many had previously seen as unacceptable now became seemingly inescapable, with administrators and politicians from across the political spectrum agreeing that new policy instruments were necessary to control migration. The parliament and senate swiftly passed new legislation—the Act on Extraordinary Measures for Urban Problems (*Wet bijzondere maatregelen grootstedelijke problematiek*), colloquially known as the "Rotterdam Act"—which entered into force in 2005 (Ouweland & Doff, 2013; Uitermark & Duyvendak, 2008; Van Eijk, 2010). While its stipulations have changed over time, the Act has been used to bar people who have

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lived in the Rotterdam region for less than six consecutive years *and* who rely on unemployment benefits or social assistance from moving into rental housing in designated areas.<sup>1</sup> In 2016, parliament accepted amendments to the Act to allow municipalities to ban households suspected of extremism, criminality or causing nuisance. The initially controversial Act has thus become part of the policy tool kit.

From an international perspective, it may seem extraordinary that deprived groups are excluded not from areas of privilege but from areas of deprivation. While the literature refers to a range of instruments used to uphold socio-spatial inequalities—zoning regulations, gated communities, redlining—governments have rarely used laws and regulations to shield deprived areas from the inflow of disadvantaged and stigmatized newcomers. It is this feature of the Rotterdam Act that distinguishes it both substantively and politically from the exclusionary state practices prominent in the literature. For instance, [Wacquant \(2004\)](#) argues that ghettos are characterized by the absence of effective state institutions, while [Agamben \(1998; 2005\)](#) contends that camps where undocumented immigrants are detained serve as the constitutive outside of civic communities and reduce internees to “bare life”—i.e. a life unprotected by the rights of citizenship. While the camp and the ghetto contain and neutralize groups deemed threatening, the Rotterdam Act is qualitatively different in that it seeks to attenuate rather than accentuate socio-spatial inequalities. Another difference concerns the effects for excluded groups. While there are instances of arbitrary violations of basic rights (see below) and the Act worsens the housing market position of excluded groups ([Hochstenbach, Uitermark, & Van Gent, 2015](#)), this is a far cry from the atrocities committed against persons reduced to “bare life.” Although the Rotterdam Act operates through territories of exception, it is more ambiguous than the Agambian literature allows for. We therefore rework the theory on statistics, sovereignty and territoriality to uncover the subtleties of power in the construction of exceptional territories—areas in which certain rights of specific groups of citizens are suspended. By focusing on the statistical politics underlying the Rotterdam Act, our analysis contributes to an emerging body of critical data studies that aims to uncover the inner workings and effects of corporate and state practices including surveillance, profiling and social sorting in seemingly innocuous processes of gathering, analyzing and reporting data ([Kitchin & Lauriault, 2014](#)).

It is with these theoretical goals in mind that this article seeks to explain how the Rotterdam Act came to pass. How did what was previously deemed unacceptable become normal? Asking this question sets us on the path of reconstructing how *specific* urban areas suffering from *extraordinary* problems were identified and how using *exceptional* measures to exclude *specific* groups were instituted. In the case at hand, we show that territories of exception are constructed through the interplay of discretionary power and statistical calculation. On the one hand, statistics were crucial in objectifying exceptionality and providing the Rotterdam Act with a scientific aura. We reconstruct how statistics demonstrated—to judges, sceptics and proponents alike—that areas were diligently selected and that exceptional problems warranted exceptional measures. The apparent rigor and judiciousness of statistics credentialized how areas were selected and how groups were excluded; law-makers and judges agreed that due process could be sacrificed so long as proper procedures were in place. In this sense,

statistics are supposed to protect citizens against the exercise of arbitrary power. On the other hand, we show that statistical procedures were based on questionable methodology and interpretations were often arbitrary. The stakeholders whom we interviewed readily conceded that the metrics informing the selection of neighborhoods and target groups were by definition incomplete and were not to be taken at face value. But although methodologically problematic, the opaque and ambivalent nature of statistics was politically expedient, allowing administrators considerable discretion to decide which areas to select and which groups to exclude. This is the paradoxical power of statistics in the case of the Rotterdam Act: they are both widely accepted as objective instruments *and* widely regarded as incomplete, arbitrary or even flawed. The dual nature of statistics—both objectifying and obfuscating—makes them a source of sovereign power.

To study the Rotterdam Act and bring out its implications, we draw on the work of Michel Foucault as well as theory on the intersections of exception, territory and statistics. The following section locates our study within these literatures. The third section discusses our methods. The subsequent three sections reconstruct the use of statistics in creating exceptional territories where certain rights are suspended. The conclusion reflects on our findings and considers their wider relevance.

## 2. Statistics, territory, sovereignty

A cornerstone of Foucault’s work is the identification of different modalities of power: sovereign, biopolitical and disciplinary. In some places, Foucault gives the impression that territorially-based sovereign power has been on the retreat since the eighteenth century, giving way to other forms of power that act on bodies and populations rather than territories ([Foucault 2003 \[1976\]](#), p. 254). In this reading, territory loses its significance as a vortex of power as the statistical approaches associated with biopolitics and the corporeal interventions associated with disciplinary power grow increasingly diffuse and entangled. But at other points, Foucault hints at a more symbiotic relation between different types of power. In his discussion of state racism, for instance, he argues that sovereignty can be re-established in a society saturated by disciplinary and biopolitical power.<sup>2</sup> This implies—or at least allows—sovereign power to be enmeshed with other forms of power. Agamben’s theory on the state of exception illustrates this well by focusing on the intersections of sovereign power and biopolitics ([Agamben, 2005; Minca, 2007](#)). Bargu similarly argues that modern state regimes are an “amalgamation of sovereignty, discipline, and biopower” (2014, p. 69). This is an important line of argument for our purposes as our interest is precisely in the specific articulation of statistics, territory and sovereignty in the case of the Rotterdam Act.

### 2.1. Statistics and territory

Scientific methods and measuring techniques have been instrumental in producing state knowledge for demarcating territories and enumerating their qualities ([Elden, 2010](#)) as well as for developing spatial technologies of power ([Roy & Crane, 2015](#)). “Territory” is not simply an area but a vortex of state power, “a rendering of the emergent concept of ‘space’ as a political category: ordered, distributed, mapped, calculated, bordered, and controlled”

<sup>1</sup> By “Rotterdam Act” or “the Act” we refer to chapter 3 article 8 of the Act, which requires households to obtain a housing permit when moving to a rent-regulated dwelling in one of the designated neighborhoods. The municipal government refuses the housing permit if prospective residents do not meet the criteria.

<sup>2</sup> Foucault speaks of a “normalizing society,” which refers to a society saturated with disciplinary power (exercised on individual bodies) and biopolitical or regulatory power (exercised on society as a whole or certain groups within the population) ([Foucault 2003 \[1976\]](#)).

(Elden, 2007, p. 578; see also Antonsich, 2009). By territories of exception we refer to a specific sub-class of territories where certain constitutional and human rights are suspended by appealing to *force majeure*. The literature on exceptional territories focuses on “camps” such as detention centers where undocumented immigrants or suspected terrorists are detained. Such camps demarcate the spatial and legal separation between the national community protected by law and outsiders defined by their lack of membership and reduced to “bare life” (Agamben, 1998, 2005; Minca, 2005; Schinkel, 2009). But the divisions between insiders and outsiders need not be as absolute as in the case of the camp. Especially when exceptional measures involve citizens, the suspension of rights is likely to be partial and conditional (Ong, 2006; Pratt, 2005). This is also the case for the Rotterdam Act (Schinkel & Van den Berg, 2011). The targeted groups are stripped of certain rights but remain part of the political community and are by no means reduced to “bare life.” And instead of being confined to exceptional territories, they are—conditionally—excluded from them (cf. Belcher, Martin, Secor, Simon, & Wilson, 2008).

While the literature on exceptionality has focused on the logic through which certain groups are categorically deprived of their rights and reduced to “bare life,” our interest is in situations where citizens of constitutional democracies are partially and conditionally deprived of their rights (cf. Schinkel & Van den Berg, 2011). Where citizenship rights are legally safeguarded, exceptions must be judiciously circumscribed: the rights of specific groups are suspended in specific places only under specific conditions. Given that the use of sovereign power is not only beyond the law but also implicated in and defined by it, exceptionality has to be undergirded by legal procedures. For instance, while the *European Convention on Human Rights* stipulates that “Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence” (Protocol 4, article 2, paragraph 1), it qualifies this right by stating that “The rights set forth in paragraph 1 may also be subject, in particular areas, to restrictions imposed in accordance with law and justified by the public interest in a democratic society” (Protocol 4, article 2, paragraph 1). So while it is legally possible to circumscribe rights, the barrier is high: it has to be proven that the public interest is at stake and that proper legal procedures are in place to protect citizens against the arbitrary exercise of state power. The democratic state has the right to defend itself and defy its founding principles—i.e. to transform into a sovereign power that can infringe on the freedom and legal equality of its subjects—but only through properly defined procedures and under exceptional circumstances. Statistics are a vital part of such procedures and therefore play an instrumental role in harnessing sovereignty, as we show below.

## 2.2. Statistics and sovereignty

While statistics are generally instrumental in the exercise of state power (Hacking, 1990; Latour, 1987; Murdoch & Ward, 1997; Rose, 1991), they perform distinctive functions in demarcating and governing territories of exception. In a constitutional state, authorities cannot simply ordain the exception in a part of the jurisdiction; they must show that they diligently followed proper procedures. Statistics provide a suitable vocabulary to do so. They can be used to demarcate territories of exception which constitute a class of their own and warrant exceptional measures and monitoring (Noordegraaf, 2008). Statistics serve to bring populations and territories into being and into view through demarcation and enumeration (cf. Latour, 1987, p. 223).

Although numerous authors have suggested that statistics serve to make territories and populations transparent through

standardization (Hacking, 1990; Latour, 1987; Lauriault, 2012), we show below that statistics can also serve state power through obfuscation. This is especially true of so-called composite indicators that combine a range of statistics into a single measure that can be tracked through time and compared across cases (cf. Miller, 2001). Although composite indicators have previously been used in different national contexts to identify distressed areas and justify extraordinary interventions (Crump, 1999; Dikeç, 2007; Uitermark, 2014; Van Gent, Musterd, & Ostendorf, 2009), their use to quantify urban processes has increased dramatically in recent years as more data has become available (Kitchin, Lauriault, & McArdle, 2015). And while composite indicators render complex realities legible through standardization, the exact methods by which they do so often remain opaque; they inevitably involve selection, weighting and interpretation but their very function is to push such complexities into the background in order to quantify social conditions with a single intuitive number (Kitchin et al., 2015). The opacity of composite indicators grows when data are sourced from different public and private partners that each have specific regulations, making it legally and practically difficult to reconstruct the procedures through which scores were obtained. Left unchallenged, composite indicators become “black boxes” that conceal controversy, amenable to unquestioned use in governmental practice (Latour, 1987). This, however, does not mean that composite indicators annul politics. Precisely because indicators conceal underlying procedures, they can readily be mobilized to serve a range of political goals. Since only a handful of experts really know how the indicators are produced, stakeholders can develop and push their own subjective interpretations of individual scores, changes over time and comparisons across cases. This is of considerable significance for understanding how statistics are implicated in the demarcation and governance of exceptional territories. While the opacity of composite indicators brackets discussion over underlying assumptions and technicalities, it generates a residual space of discretionary power as governments and experts mobilize and interpret metrics as they see fit.

## 2.3. Statistics, territory, sovereignty

Governments cannot justify exceptional policies by simply stating that certain groups of citizens or territories are “deviant” and therefore deserve treatment in violation of basic rights; they must *demonstrate* that specific citizens or territories require such exceptional measures. Statistics provide the means to do this. It is through statistics that “normality” and “deviation” appear gradual and objective rather than categorical or subjective. While previous studies have emphasized how statistics can serve to displace, bracket or channel politics (see, among others, Barry, 2002; Mouffe, 2005; Swyngedouw, 2011), we argue that in the case of the Rotterdam Act, there is no political annulment. On the contrary, statistics are at the very basis of the politics of exception as they provide a frame, means and justification for sovereign power to operate. The purpose of our inquiry is therefore to trace how statistics were constructed, mobilized and interpreted in the remarkable development of the Rotterdam Act into an established part of national policy.

## 3. Researching statistical politics

We used three main methods to study the statistical politics of exceptional territories in the case of the Rotterdam Act: participant observation, interviews and reverse black-boxing. Participant observation was done mostly while we were carrying out an evaluation of the socio-spatial effects of the Rotterdam Act requested by the Dutch Senate and commissioned by the Ministry of the Interior.

Although we contractually agreed that we could write on the Rotterdam Act without asking permission from the Ministry, our position as government-contracted researchers obviously shapes what we can write.<sup>3</sup> For instance, we cannot report on remarks or actions that stakeholders confided to us during meetings. Perhaps more fundamentally, as government-contracted evaluators we became part of the very machinery we sought to understand. While our nominally independent position was respected throughout the research project, there were countless formal and informal ways in which carrying out the evaluation prompted us to adopt and occasionally internalize government-sanctioned assumptions and orientations. Many decisions that we had previously considered problematic began to make sense. For example, we could understand that administrators feel that the Rotterdam Act provides them with some breathing space to address problems and that they fear that the situation might be more difficult to handle without the Act. Similarly, the reasoning behind certain decisions that appeared problematic for both normative and methodological reasons—including the decision to consider the proportions of immigrants, lower-income households, and affordable housing as negative indicators of a neighborhood's livability or safety—became understandable. This does not mean that we support the Rotterdam Act. But through this process of familiarization, we better understood how what was initially unthinkable or unacceptable became normalized, as we cognitively and emotionally experienced this process ourselves in the course of our research.

In addition to participant observation, this article draws on interviews with professionals involved in the development of composite indicators, administrators responsible for governing the designated areas and other stakeholders such as housing corporations. The interviews provided information on how the Rotterdam Act was developed and implemented, how stakeholders interpreted and used statistics, and how they perceived and intervened into policy and political debates surrounding the law. These interviews were conducted mostly in parallel with the interviews for our evaluation. We obtained informed consent from our interviewees to use the material for what we described as a research project on the politics of statistics. Considering the political sensitivities surrounding the Rotterdam Act, we assured our interviewees confidentiality and minimized the use of direct quotes from the interviews in favor of citing publicly available statements. Finally, we excavated the procedures underlying the making of composite indicators through a process of reverse black-boxing.<sup>4</sup> Whenever we found that a measure had been used in decision-making, we traced that measure back to its origins: when and how it was produced, by whom and for what purpose. We consulted methodological treatises, accessed databases, and spoke to the measures' engineers and managers. This allowed us to reconstruct how black boxes were created and to get an idea of what was inside. Despite our best efforts, we could not excavate some procedures and data because they were owned by consulting agencies. Although this means that we could not obtain all the information we looked for, encountering such obstacles increased our understanding of how statistics are managed and their access regulated.

Alongside our study of secondary sources—newspaper reports, policy documents and academic studies—these three methods enable us to trace the genealogical lineages on which the Rotterdam

Act is built (cf. Foucault 1977, 1978) and to examine how its promoters overcame practical and legal obstacles. In our empirical analysis, we discuss five stages in the development of the Rotterdam Act: its prehistory, establishment, implementation, normalization and expansion. For each stage we discuss how statistics are implicated in the identification and governance of exceptional territories.

#### 4. The Rotterdam Act's prehistory

The 1990s and early 2000s saw major advances in the measuring and monitoring of neighborhood deprivation, which laid the groundwork—or in Foucault's formulation, the “conditions of possibility” (Foucault 1977)—for the Rotterdam Act's statistical procedures. While neighborhoods were previously ranked according to crude measures—such as the proportion of immigrants—in the 1990s and early 2000s researchers from two policy research companies developed composite indicators to map and monitor neighborhoods. One researcher involved in the early development of such indicators explained that they were designed to provide common denominators in highly politicized debates on issues such as nuisance. He also recounted that in this period more data became available:

In early 2000 all kinds of data were made available on the pc6-level [the lowest postcode level]. And then we found out that we could figure out what the relation is between what environments look like and how people view them.

The researchers involved in developing the indicators measured “livability” by using basically all the data at their disposal, including information on traffic, housing stock, neighborhood population, prevalence of crime, etc. The most commonly used indicators also included the proportion of ethnic minorities in the neighborhood. This was significant. While historical precedents suggested that targeting areas on the basis of their share of ethnic minorities would be a legal and political minefield, this was now among the criteria for “livability.” When incorporated in composite indicators, this criterion—and others, such as the unemployment level—hardly raised eyebrows; nor did it meet any legal challenges.<sup>5</sup> While some advisory councils and academics criticized neighborhood restructuring policy, their criticisms were more general and less consequential than when the debate centered on a single metric (for instance, the 5% used in 1972). Incorporating an array of variables into the composite indicators helped to dilute and diffuse controversy.

##### 4.1. The livability index

A breakthrough in the measurement of livability came with the integration of two models developed by two companies in 2000. One had used a range of factors to estimate the market value of real estate in a neighborhood (on the assumption that this value reflects revealed preferences and thus “livability”). The other company

<sup>3</sup> We did agree to share outputs prior to publication. Although this article does not draw directly on our evaluation, we did send it to our contact person at the Ministry of the Interior. Civil servants disagreed with our analysis on several points and objected strongly to the framing in terms of exceptional territories. We made some factual corrections and changed a couple of formulations that had caused unnecessary offense but did not change the overall framing of our argument.

<sup>4</sup> We owe the concept of reverse black-boxing to Davide Beraldo.

<sup>5</sup> While it is beyond the scope of this article, it is striking that differential treatment according to unemployment status or income is not considered discrimination whereas differential treatment according to ethnicity is. In a debate in which we participated, a civil servant of the Rotterdam government argued that the Rotterdam Act did not discriminate since it does not sanction differential treatment according to ethnic background. Critics reasoned that ethnic minorities are over-represented among unemployed groups and that the Act therefore discriminates indirectly. Discrimination according to socio-economic status is then considered oxymoronic and its effects shielded from criticism (see Van Eijk, 2016).

used a range of factors to estimate residents' views of the neighborhood as expressed in surveys (with higher satisfaction indicating higher "livability"). To construct a comprehensive livability score, both models were simply combined, with each accounting for fifty percent of the total score. This became the Livability Index (*Leefbaarometer*). The decision to combine the two models was a compromise between models that estimated stated preferences and models that estimated revealed preferences; there were no theoretical or methodological reasons to construct the index in this way. Furthermore, the Livability Index did not take into account covariances, spatial autocorrelations or multicollinearities among the 49 variables that fed into the models: all available scores were inserted into the model with the sole purpose of achieving the highest possible statistical fit ( $R^2$ ). Since the model largely aimed to explain housing prices, it naturally followed that the prevalence of social housing or low-income groups are negative indicators of livability. The share of non-western non-native residents is in fact the single most important negative predictor of livability. Another consequence was that aspects that would presumably be appreciated by residents, such as low housing costs, became negative indicators of livability. Burglaries, in contrast, were not seen as a negative indicator of livability since they occur less often in deprived neighborhoods. These are serious methodological shortcomings but were glossed over in the extensive documentation of the index (*RIGO & Atlas voor Gemeenten, 2008*). Instead, the documentation confidently claimed that the selection of variables—and how they influence the livability score (direction and weight)—is determined objectively through regression models estimating stated and revealed preferences, which means that "discussions about whether some issues should have been accorded a higher or lighter weight are fundamentally irrelevant" (*RIGO & Atlas voor Gemeenten, 2008, p. 128*). In fact, this discussion would not be possible because the calculation of the index is privy to the company: it is impossible for members of the public to trace back overall scores to individual indicators.

Methodological problems do not end with the lack of transparency. Since the Livability Index's data sources and calculating methods have changed over time (e.g. *RIGO & Atlas voor Gemeenten, 2011*), the diachronic comparison of scores is problematic, as the architects of the index themselves note. This is nevertheless exactly what the government does on its public website—<http://www.leefbaarometer.nl>—which serves as an interface between users and the database with livability scores. Through interactive maps and graphs, the website encourages users to track livability scores over time to see if "their" area has improved or not. One might argue, as several of our respondents did, that such exercises serve as first-cut analyses: the measurements give rough impressions and sudden changes should prompt stakeholders to take a closer look at what lies behind surges or decreases. But this is impossible since scores for the individual indicators are not available. The website provides graphics on the six dimensions underlying the Livability Index but the documentation clarifies that these cannot be used and interpreted individually as the variables underlying the six dimensions are derived from the same two regression models and therefore dependent on each other (*RIGO & Atlas voor Gemeenten, 2008*).<sup>6</sup>

So why would authorities and companies invest so much in the construction of an index beset by methodological problems? One reason is that the index encodes a specific understanding of what

good neighborhoods are; they have high homeownership rates, high house prices, low unemployment rates, high income levels, and a low presence of ethnic minorities. That the Livability Index in practice measures status might explain its intuitive appeal. It not only justifies the selection of "problem neighborhoods" but also provides a benchmark for policy success as neighborhood scores can be tracked over time. This last function is especially important because the Livability Index scores do not necessarily correspond to other possible metrics of success. For instance, The Netherlands Institute for Social Research (*SCP, 2013, p. 16*) found significant increases in the Livability Index for neighborhoods targeted by urban renewal, while all other indicators of safety, satisfaction and social cohesion showed only modest gains or losses. Beyond the obvious short-term political purposes that the Livability Index serves, it reflects and promotes a distinct gaze: it is "a generative device that actively assembles and arranges the world ... through semiotic, statistical and visual techniques" (*De Wilde & Franssen, 2016, p. 18*; see also *Lauriault, 2012; Lub & De Leeuw, 2016*). More specifically, the Index locates social problems at the neighborhood level and allows the translation of complex local realities into a single universal measure, enabling national and local authorities to rank neighborhoods and prioritize their policies accordingly.

## 5. Establishing the Rotterdam Act

The elaborate methods of quantifying and ranking neighborhoods were pushed to new heights in Rotterdam following Leefbaar's electoral victory. In its efforts to effectuate a regime change, the new city government embraced the methods of New Public Management wholesale. Rather than formulate general goals, it insisted on quantitative targets and careful monitoring. *Tops (2007)* and *Noordegraaf (2008)* have argued that the new city government's numbers-based approach helped overcome opposition from civil servants, housing corporations and others who had previously worked with the city's Social Democratic administrators. Although it is obvious that quality of government cannot be measured by statistics on neighborhood development,<sup>7</sup> the new coalition insisted that they were to take responsibility for the changes in the scores. The numbers provided a range of stakeholders with a common frame of reference and a shared goal: to improve neighborhood scores. The new "Safety Index" now became central in Rotterdam's policies.<sup>8</sup> Mayor Ivo Opstelten even declared that he would resign unless all of Rotterdam's neighborhoods reach a

<sup>7</sup> If only for the reason that there are innumerable processes operating on a variety of scales that impact on what goes on in a given city or neighborhood. If we compare Amsterdam and Rotterdam in the post-Leefbaar period, the two cities show remarkably similar trends for safety, suggesting that the origins of changes may lie elsewhere (*Uitermark & Duyvendak, 2008*).

<sup>8</sup> Like the Livability Index, the Safety Index is a composite indicator that includes "objective" factors such as share of ethnic minorities and social housing, although these are more heavily weighted in the Livability Index. The Safety Index score is in large part determined by the results of a survey of Rotterdam's population, thus measuring the subjective views of residents in a much more direct way than the Livability Index. Perhaps most importantly for politicians, the Safety Index is presented on a 10-point scale, meaning that Dutch audiences used to this scale from school can intuitively interpret the metric. The city-wide score in 1999 was taken as the baseline of 5.5. Scores have since improved rapidly (in line with national trends of declining crime), so much so that in many areas the score is now well above 10 (the best score). The propagators of the index then faced a dilemma: either correct the measure and suggest that safety has not improved as much or continue to use metrics that suggest certain neighborhoods are more than perfectly safe. Ultimately, they opted for combining the Safety Index with other indicators to create a broader "Neighborhood Profile."

<sup>6</sup> In 2015, at the time of writing this paper, a new version of the Livability Index was put in use. While solving some methodological problems, others remain. Most importantly, it continues to use indicators such as the share of social housing, unemployed residents, and ethnic minorities as negative predictors of livability.

minimum threshold.<sup>9</sup> In lieu of mayoral elections—mayors are appointed in the Netherlands—Opstelten declared that statistics provide democratic legitimacy: “13,000 Rotterdammers have been surveyed. It cannot be any more representative” (quoted in [Tops, 2007](#), p. 281, our translation). The focus on quantifiable results went hand in hand with insistence that policy measures should be radical if necessary, reflecting the actual problem rather than the common sense prevailing under previous governments or current regulations and procedures. The new Rotterdam government in its foundational statement thus proposed a range of new methods to set the city “on the road to balance” ([Gemeente Rotterdam, 2003](#)).

In sum, the approach of Rotterdam’s new regime was to challenge existing ideas, rules and regulations in the name of realism and democracy. Statistics were key to this strategy as they afforded administrators the possibility to sideline concerns that the government may be acting out of prejudice. The statistics provided numerical cover and allowed the new regime to turn the table: their political adversaries were accused of political correctness and naivety if they objected to the regime’s policies and ideas. The numbers thus served as a statistical foundation to push forward fundamentally new measures, including the Rotterdam Act.

As we noted in the Introduction, the option to ban poor immigrants from moving into certain areas was put on the table following the publication of a report by Rotterdam’s statistical office projecting that the share of native Dutch in the city would decrease to below 50% by 2017 ([COS, 2003](#)). Rotterdam’s statistical office had produced such forecasts before without eliciting political or media response. But this time, there were subtle changes that allowed politicians to seize on the numbers. The statistical office had for the first time provided projections for individual neighborhoods, enabling politicians and journalists to focus attention on areas that would undergo the most abrupt changes. The statistical office also published another report with statistics on ethnic groups to illustrate that minorities disproportionately engage in crime, drop out of school, are unemployed and so on. Finally, the municipality’s top civil servants had an intensive communications strategy to mobilize the forecasts for discussion. And mobilized they were. Both local and national media jumped on the statistics and reported, for instance, that the proportion of native Dutch in the district of Charlois would drop from about half to a “a mere” 15% and that the neighborhood of IJsselmonde would “change color” as the share of native Dutch would drop from 63% to 33% ([Rotterdams Dagblad, 2003a](#), p. 701). Asked for a response, the district-council chair of Charlois, Dominic Schrijer, stated that “problems emerge in neighborhoods where ethnic minorities with severely disadvantaged positions reside” ([Rotterdams Dagblad, 2003b](#), p. 703). Observing that many deprived immigrants were moving into the neighborhood, the Labor Party politician continued, “actually—I’m not afraid to say this—we already cannot cope with the problems surrounding this group” ([Rotterdams Dagblad, 2003b](#)). Marco Pastors, alderman of spatial planning and leader of Leefbaar Rotterdam, seized the occasion: “We had to prove to the rest of the country that we’re not insane. When the report was published, we had proof in hand that we’re not retarded. I thought: we can use this, the time is ripe” (cited in [Schulte, 2004](#), p. 5). The mobilization of statistics by Pastors and his allies resonated in Rotterdam’s changing political landscape (cf. [Noordegraaf, 2008](#)). Mayor Ivo Opstelten applauded when the cabinet agreed to propose the Rotterdam Act to parliament: “Not only Rotterdam has guts, the cabinet has guts too, by showing that

it acknowledges our problems.” He congratulated the cabinet on its “vigorous” approach and hoped parliament would treat the proposed act “with the urgency Rotterdam’s problems demand” (cited in [Van Groningen, 2006](#), p. 7). The hope was not in vain. The Dutch cabinet handled the Act with unusual vigor and put it into effect in 2005.

### 5.1. Implementing the Rotterdam Act

Particular ways of mapping and measuring neighborhoods developed since the 1990s were seized upon by Rotterdam’s Leefbaar government following its ascent to power in 2002. Statistics were central to its argument that novel forms of statecraft were needed. But the Rotterdam Act could only be implemented when it was ascertained that four legal requirements had been met: necessity, proportionality, subsidiarity and suitability. A formal request from the municipal to the national government was required to show that: (1) designated areas suffered from exceptional social problems (necessity), (2) the housing market position of excluded groups would not be unduly restricted (proportionality), (3) that current policies were insufficient (subsidiarity), and (4) that the Rotterdam Act was an effective measure to deal with local social issues (suitability). Shortly after the Act entered into effect, the municipality requested the designation of four neighborhoods in the southern part of Rotterdam (Carnisse, Hillesluis, Oud-Charlois and Tarwewijk) as well as twenty streets, and mobilized a range of statistics—most importantly the municipality’s population prognosis—to prove that the Act’s implementation was necessary, proportional, sufficient and suitable ([Fig. 1](#)).

In Rotterdam’s request to implement the Act, necessity was proven by referring to the aforementioned population prognosis for 2003–2017, which was primarily concerned with the concentration of ethnic minorities. While the Act did not formally recognize ethnicity as a basis for exclusion, the Ministry of Housing, Spatial Planning and the Environment stated when granting its permission:

The main conclusion of the prognosis was that the number of native Rotterdammers will decrease over the coming years and that there will be a big increase in the number of people from “other poor countries.” Additional analyses reveal that concentrations of residents with few socio-economic opportunities will emerge and that in certain neighborhoods inappropriate behavior, nuisance and criminality will accumulate and spiral out of control ([Ministry of VROM, 2006](#), p. 2).

Although the prognosis and the debates surrounding it focused specifically on ethnic minorities, the actual policy was designed to discriminate according to employment status and residence. The local and central government agreed to exclude groups based on source of income while exclusion would not apply to residents living in the Rotterdam metropolitan region for at least six continuous years.

To demonstrate the Act’s suitability, the government referred to the Rotterdam Statistical Office’s evaluation of an earlier policy experiment that had excluded new low-income residents from Carnisse. While the evaluation could not establish that the exclusion of low-income residents had improved the livability or safety of the designated area, it argued that the measure was effective in reducing their proportion within the population ([COS, 2005](#)). A subsequent evaluation concluded—on the basis of interviews with unnamed professionals and authorities—that livability and safety were most likely increasing but that these trends were not yet evident in the statistics ([COS, 2007](#)). This illustrates a point we

<sup>9</sup> The threshold was put at the (arbitrary) score of 3.9. Although one neighborhood scored below this threshold in 2005, Opstelten did not resign.

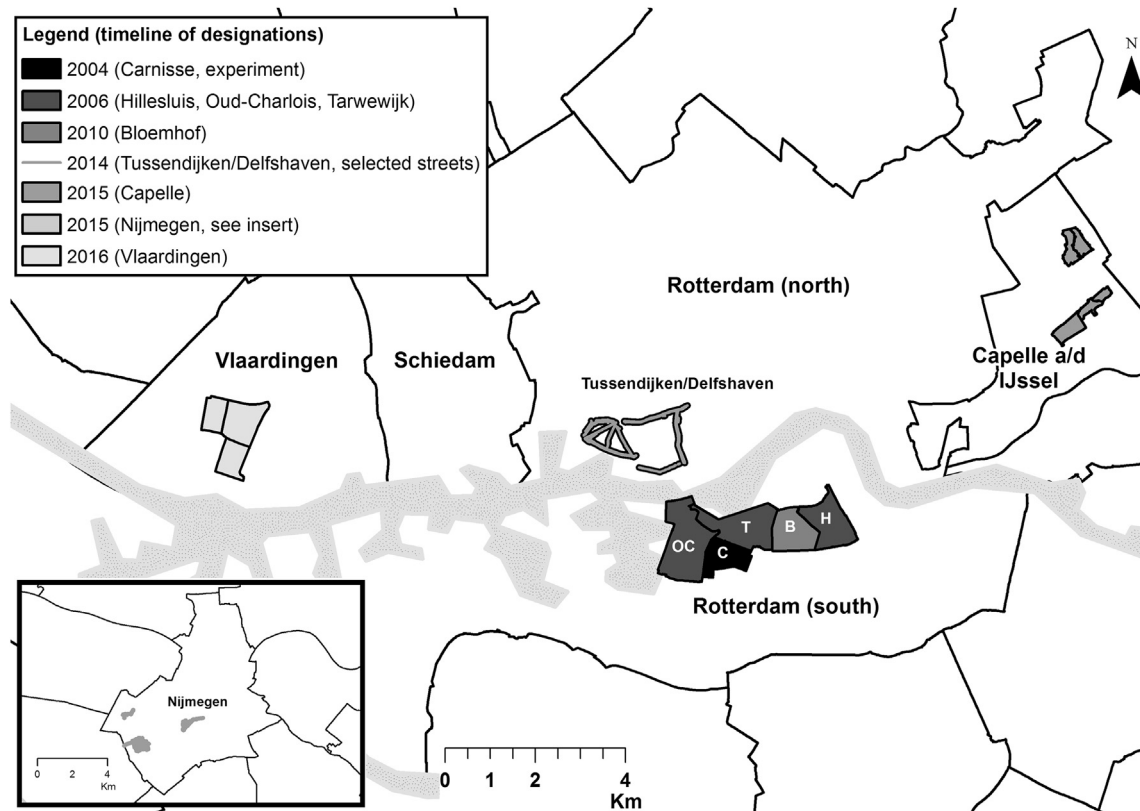


Fig. 1. Designations of the Rotterdam Act over time (up to July 2016). The main map displays the Rotterdam region, the inserted map displays Nijmegen. Note: B=Bloemhof; C=Carnisse; H=Hillesluis; OC= Oud-Charlois; T = Tarwewijk.

made earlier and will return to later on: government officials retain discretion by referring to the objectivity of statistics when numbers support their views and to the limitations of statistics when the numbers do not. In our case, the reduction in the influx of low-income residents was seen as statistical proof that the policy worked, while the lack of movement in other indicators was attributed to the failure of these metrics to capture nascent positive trends. After the Ministry approved the request, the Act entered into effect in four neighborhoods on July 1, 2006.

Our analysis reveals how statistics figured in the creation of exceptional territories. Forecasts, policy evaluations and metrics were instrumental in determining the necessity of exceptional measures and demarcating exceptional territories. While the Rotterdam government previously relied on apocalyptic statements to communicate the urgency of its dispersal policy—proclaiming that there “is not a shimmer of doubt that unbridled concentration causes intolerance, aggression and discrimination” (*Gemeente Rotterdam* 1979; cited in Bolt, 2004, p. 2, our translation)—it now cited a range of reports to argue that neighborhoods would spiral out of control unless the Rotterdam Act was implemented. In effect, Rotterdam succeeded where it had previously failed; it received legal and political backing to forbid specific groups from moving to the designated areas.

## 6. Normalizing the Rotterdam Act

The literature on exceptionality suggests that temporary measures responding to urgent situations often acquire a more permanent character over time (Baptista, 2013; Neocleous, 2006). The exception becomes the new normal. This also happened with the Rotterdam Act. Once designated as exceptional territories, neighborhoods continue to be closed off to people who do not meet

the criteria.<sup>10</sup> This is all the more remarkable considering that the Act was explicitly presented as a temporary measure that should only be used as a last resort—ministerial documents literally refer to the measure as an *ultimum remedium*. While it was possible to extend the status of designated neighborhoods, the burden of proof increases with each new request to ensure that the municipality’s discretionary power is circumscribed. What needs to be explained, then, is how a measure considered highly controversial and temporary was normalized and extended. Again, statistics played a key role. Periodical evaluations by Rotterdam’s Statistical Office provided the evidence base for extensions in already-targeted areas and for expansion to new areas (COS, 2007; 2009; 2012). The evaluations used four indicators to monitor targeted neighborhoods: the share of unemployed residents, the Safety Index, the Social Index and a Potential Problem Accumulation score.<sup>11</sup> Together, these indicators provided the “evaluation framework” and the evidence base for policy decisions. A neighborhood was deemed “eligible” when all indicators were below or above a critical level. Thresholds—e.g. one standard deviation below/above the city average—were used to determine whether critical levels had been exceeded. Using these statistical thresholds gave the processes of application, decision and implementation an air of

<sup>10</sup> There is one minor exception: the designation of twenty streets in 2006 was not extended in 2010. However, eleven of those twenty streets were immediately re-designated because they are located in Bloemhof (a neighborhood designated in 2010) and four of the streets were re-designated in 2014.

<sup>11</sup> The Social Index and the “Potential Problem Accumulation” are composite indicators similar to the Safety Index. The indicators include variables such as the percentage of unemployed residents, ethnic minorities and social rental dwellings as negative indicators. This is significant because it means that—under *ceteris paribus* conditions—both indices will automatically increase if the proportion of unemployed residents goes down and vice versa.



objectivity, even suggesting that statistical procedures had supplanted political decision-making. Nevertheless, the Rotterdam city council itself chose the indicators, determined the critical levels (COS, 2009, p. 10) and ignored the statistical framework at will on several occasions. For instance, on the basis of the framework the council provided, Rotterdam's Statistical Office concluded in 2009:

Application of the critical levels entails continuation of the measure [the Rotterdam Act] in Tarwewijk and introduction in Bloemhof. The measure could be ended in Carnisse, Oud-Charlois and Hillesluis (COS, 2009, p. 10).

The city council used these findings to justify the application of the Rotterdam Act in Bloemhof and its continuation in Tarwewijk, but ignored them when it decided to continue its application in Carnisse, Oud-Charlois and Hillesluis. After the subsequent evaluation (COS, 2012, p. 11), the city council again ignored the finding that the Act should no longer be applied in two neighborhoods (Carnisse and Oud-Charlois), but embraced the finding that it should be newly applied to Tussendijken (COS, 2012, p. 11). A motion requesting the local government to include Tussendijken stated that the neighborhood “meets the required indicators [sic] determined by the city council for introduction of the Rotterdam Act” and that “objective identification based on unambiguous criteria ought to be the starting point” (PvdA, VVD, & CDA, 2013, n.p.). The selective appropriation of statistics continued as the local government requested (to the Ministry of the Interior, which hosted the minister and department responsible for managing the Act and the Livability Index after 2010) the designation of ten specific streets in Tussendijken/Delfshaven, using numbers that actually showed that in five of these streets the share of unemployed residents was already below the city average (Ministry of the Interior, 2014, p. 9). Depending on the circumstances, the same metrics were presented as hard evidence or relativized and ignored.

The ambiguity of statistics is also evident when the Ministry decides on requests from local governments. In its decisions, the Ministry must show that the Act remains necessary given the exceptional nature of the problems. But it must also show that the Act has been effective in addressing these same problems. The balancing act is achieved by using different statistical sources. Based on both the Safety Index and the Social Index, the Ministry concluded that the Act remained necessary as “no structural improvement can be measured in the designated neighborhoods” (Ministry of the Interior, 2014, p. 5). Two pages later, the decision letter noted that the Act had been effective as designated areas showed a small improvement in their Livability Index scores (e.g. between 2006 and 2012 the score went up from 3.5 to 3.6 in Hillesluis), even though this was in line with Rotterdam's average trend (Ministry of the Interior, 2014, p. 7). We noted above the methodological problems of comparing livability scores over time—especially when changes are minor—and the impossibility of determining the cause of fluctuations. Here we see how the indeterminacy of statistics is not a liability but an opportunity for administrators. It is precisely the simultaneously objectifying and obfuscating character of composite indicators that allows for their selective mobilization.

Composite indicators are also instrumental in shielding exceptional measures from legal challenges. The most significant challenge was leveled by a single mother of two who had to move out of her one-bedroom apartment due to renovation. Her landlord offered to relocate the family to a more spacious dwelling in the same neighborhood (Tarwewijk) but the Rotterdam government refused to grant the housing permit on the grounds that the woman

did not fulfill the income and residency criteria to obtain it. Hence she could not move to the neighborhood, even though she was already living there. The judge ruled that the local government was entitled to refuse the permit, arguing that the woman was “indisputably” in a weak socio-economic position (*kansarm*) because she relied on benefits. Disallowing such people to move into (or in her case, within) the neighborhood was, according to the judge, acceptable as the government had sufficiently argued that the designated areas had reached “their maximum absorptive capacity concerning the intake and supervision of socio-economically weak groups” and, referring back to claims regarding the Act's suitability and necessity, that there was sufficient objective proof to exclude such groups to better address existing neighborhood problems (Rotterdam Law Court 2008: n.p.; see also European Court of Human Rights, 2016).

Since its introduction in 2006, the Rotterdam Act has become a normalized policy instrument to exclude disadvantaged residents. Although in the formal understanding of the Act the exclusion of unemployed residents is at best a necessary evil, in practice it is often considered a positive outcome even when there is no evidence of positive effects on a neighborhood's livability or safety. When the absence of unemployed residents is considered a sign of success, applying the Act is inherently and always a good thing. This view is baked into the statistical measures as they invariably include the proportion of unemployed individuals as a negative indicator of livability.

## 7. Expanding the Rotterdam Act

The normalization of the Rotterdam Act paved the way for its application to other neighborhoods in 2010 and 2014. As new areas were added, neighborhoods could now be designated for up to twenty (rather than eight) years—necessary for the Act's continued application to the four initially targeted neighborhoods. In 2015, the Act was expanded to two other municipalities: Capelle aan den IJssel (in the Rotterdam metropolitan region) and Nijmegen (a city in the east of the Netherlands). Vlaardingen, adjacent to Rotterdam, was added in early 2016 (see Fig. 1).

Standardized practices of calculation facilitated the spread of the Rotterdam Act from exceptional territories functioning as policy incubators to other areas deemed deviant and in need of intervention (cf. Latour, 1987; Peck & Theodore, 2010). Composite indicators enabled this transfer by creating a hierarchy of neighborhoods that implied low-ranking neighborhoods should be of concern to policy-makers. The Livability Index suggests that all Dutch neighborhoods—regardless of context—can be objectively compared in a single framework that identifies the most deviant and problematic areas. Municipalities can then strategically use indicators to request additional funding or greater discretion from the Ministry of the Interior. The Livability Index played a crucial role in this process. Since only Rotterdam could call on its Safety Index and Social Index, other municipalities relied to a greater extent on the Livability Index, which became the standardized metric in debates over neighborhoods and urban policy. For instance, in its request to designate neighborhoods within its jurisdiction, the Municipality of Vlaardingen used a screen copy of scores from the Livability Index website (Ministry of the Interior, 2016). The Municipality of Capelle aan den IJssel also referred to livability scores to drive home its argument that certain areas urgently required intervention (even though some had “moderately positive” scores) (Ministry of the Interior, 2015, p. 2).

The spread of the Rotterdam Act did not stop with the growing number of designated neighborhoods. The Dutch parliament in 2016 extended the Act to target groups other than jobless newcomers. Population groups may now also be excluded on the basis

of reports of nuisance, police records, criminal convictions or suspicions of jihadism. Rotterdam was the first municipality to announce that it would seek to also ban these groups from designated areas. These extensions of the Act show that what was once emergency legislation for exceptional territories has become a general framework for addressing a range of issues in a variety of local contexts.

## 8. Discussion: continuities and ruptures in urban policy

The genealogy of the Rotterdam Act reads as a series of breakthroughs and experiments. Exceptional territories are indeed shells of the new in the old, testbeds for policies considered too extreme for other people and places—but which may grow more acceptable over time. But in other ways, the Rotterdam Act represents a continuation of Dutch urban policies that have promoted social mixing within disadvantaged neighborhoods. Although this strategy to ensure order through social mixing is not unique to the Netherlands, the Dutch government has historically been exceptionally ambitious in countering spatial concentrations of deprived and minority groups (Uitermark, 2014). By demolishing social housing and building owner-occupied units in deprived neighborhoods, successive governments and housing corporations hoped to create a stable mix of residents (Uitermark & Bosker, 2014; Uitermark, Duyvendak, & Kleinhans, 2007). Although the literature suggests that governments often aim to ensure order by banishing stigmatized groups to areas of relegation (Agamben, 2005; Beckett & Herbert, 2009; Wacquant, 2008), in the case of social mixing policies governments try to ensure that disadvantaged and stigmatized groups do *not* concentrate in specific places. In this the Rotterdam Act represents continuity in Dutch policy. Where it breaks from established practice is in its means, with the emphasis shifting from attracting middle-class households to keeping lower-class households out. And although the Rotterdam Act has thus far only been applied to a limited number of neighborhoods, its early development suggests that it can spread beyond its point of origin.

## 9. Conclusion

This paper has examined how what was initially unthinkable—the government forbidding certain population groups to move into certain areas—gradually became possible, acceptable and even normal. Statistics featured prominently in calls to expand sovereign power, in governmental efforts to prove that problems were spiraling out of control, and to convince judges and others that proposed measures conformed to the criteria of necessity, proportionality, subsidiarity and suitability. Statistics were crucial to show that the suspension of basic rights was carefully circumscribed and monitored. By designating exceptional territories, administrators obtained the discretionary power to implement policies that remained unacceptable in normal areas of national jurisdiction, thereby opening up possibilities to develop new forms of statecraft. Statistics were crucial for extending the exception, as they enabled local governments to frame their requests for increased discretionary power through standardized and legitimate concepts and metrics. In our case, the Ministry of the Interior actively encouraged municipal governments to use the monitors and indexes, notably the Livability Index, to argue why the application of the Act is, in their case, proportionate, necessary, subsidiary and effective. As a normalized policy instrument, the Rotterdam Act was gradually rolled out to encompass other population groups and territories.

While at first glance the growing use of statistics may suggest that administrators are subordinating politics to numbers, our case shows that the scope of decision-making was not reduced to

technical considerations. On the contrary, statistics—selectively mobilized and interpreted to justify decisions that would otherwise remain infeasible—open up greater space for political decision-making. In such cases, statistics become ammunition to show that policies must now go beyond what was once thought possible and acceptable, with administrators retaining the discretion to ignore or relativize guidelines and metrics when the numbers do not support their policy goals. Far from dictating policy or annulling politics, statistics can inform, justify and normalize previously unacceptable policy practices.

This is not to claim that statistics can be made to say just about anything, as suggested by the aphorism “if you torture the data long enough, it will confess” (attributed to the statistician Ronald Coates). Many administrators respect—even revere—statistics as a source of democratic legitimacy and factual information. Statistics also play a key role in furnishing the lenses through which government officials see the city as a set of independent neighborhoods, ranked according to safety or livability. Neither sovereignty nor statistics are reducible to the other. The Rotterdam Act shows that sovereign power—expressed as the government’s right to forbid certain groups of citizens from moving into certain neighborhoods—has not receded. Instead, sovereign power mutates as it combines forces with statistical calculation, a development that can also be seen in the rise of hotspot policing in New York (Lum, Koper, & Telep, 2011; Smith, 2001), the implementation of austerity in Detroit (Peck & Whiteside, 2016) and a string of measures on security, penal justice and immigration in French urban areas (Dikeç, 2007). In all of these cases, numbers and statistics serve to identify territories for implementing policies that remain unacceptable or even unthinkable elsewhere.

Political decision-making employing statistics is becoming the norm as the digitization of data provides unprecedented opportunities to algorithmically identify risky people and places (McQuillan, 2015; Schinkel, 2011). Customers and clients are “routinely measured and ranked, and receive differential services, based on their associated data and where they live” (Kitchin & Lauriault, 2014, p. 12). As profiling becomes more sophisticated and treatment increasingly differentiated, practices that would previously have been considered unlawful or irresponsible acquire a judicious and scientific halo. While refusing clients based on a single characteristic such as ethnicity, gender or place of residence is often considered discriminatory, differential treatment based on a combination of background variables is becoming standard business and government practice. The increasing availability of data and the growing sophistication of algorithms permit corporations and governments greater discretion. While statistics are essential instruments for corporations and governments, constitutional democracies can specifically use them to show that their policies and infringements of rights fulfill the criteria of necessity, subsidiarity, suitability and proportionality. In extreme cases, statistics can be a matter of life and death, for example when estimates of suspects’ culpability and whereabouts inform extra-judicial killings by the United States government. Here, too, we see an interplay of discretionary power and statistical calculation that operates outside of, or replaces, legal procedures based on principles of equality and presumption of innocence. While such extreme cases deserve scrutiny, the same is true for cases where the exercise of power is quotidian and subtle.

The theoretical framework and methods presented in this article provide tools to dissect power relations in increasingly data-saturated political contexts. We need to move beyond the observation that algorithms and calculations are not neutral, to developing approaches that can unearth the workings of power in specific contexts. This requires critical researchers to stop shunning calculation and statistics in an anti-positivist reflex, but to instead

develop an understanding of their intricacies and effects (Sheppard, 2014). A useful metaphor here is that of the hacker. Hackers have intimate working knowledge of procedures and systems without taking their underlying notions or default settings for granted. Through ethnographic methods and reverse black-boxing, researchers can reveal and critique the arbitrary exercises of power enabled and concealed by complex or even obscure calculating practices (see Kubitschko, 2015; O'Neil, 2016). More particularly, we have suggested that the construction of exceptional territories has been key to the shirking of rights in the case of the Rotterdam Act. It is in and through these territories that the exception becomes operative. Grasping how territories of exception are produced is critical if we want to understand the uses and abuses of sovereign power.

## Acknowledgments

We would like to thank Ryan Powell for helpful comments and for organizing a seminar where we had the opportunity to present the first version of this paper. Thanks also to Danielle Chevalier, Vasco Lub, Virginie Mamadouh, Jan Nijman, and three anonymous reviewers for their supportive comments and useful suggestions. We thank David Takeo Hymans for editing the paper. The Ministry of the Interior commissioned the evaluation research referenced in the paper (Hochstenbach et al., 2015). The Ministry is in no way responsible for the arguments put forward in this paper. Justus Uitermark also acknowledges the financial support of a VENI-grant from NWO, the Netherlands Organization for Scientific Research (#451-12-035).

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