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Joint Research Agenda

EURASIA-Net Deliverable No.5

prepared by Mahanirban Calcutta Research Group and Brunel University

EURASIA-Net Consortium

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Prepared by MCRG and Brunel University in the framework of Eurasia-Net Project

In partnership with partners and associates of the project

This deliverable will focus on research policies and trends in both Europe and South Asia, and to include the new ideas generated by the Final Conference, with special regard to the Trans-regional Platform. European research must create, together with colleagues from the region, the knowledge basis for an effective and comprehensive EU cooperation policy with South Asia. A first, indispensable step in this direction is to **develop a joint research agenda** focusing on human and minority rights as one of the most critical factors of South Asian regional stability. Two different sets of experiences were markedly noticed during the project; the routes in which minority rights have been approached. The Joint Research Agenda will help to develop a nuanced approach and best practice as to how to develop trans national platforms. The objective of this research agenda is not to take European solutions and look at how this has- or can- be adapted to ‘best fit’ South Asia, but relies more on a historical approach in which sources of common experience are shared and institutional structures are build upon.

The following topics have been selected to further the research agenda in light of the further discussions and meetings held by consortium members of EURASIA-Net. The topics relate to the reports and research bank gained from the Study Visit reports, in addition to Consortium discussions regarding the effect that each of the following has on the aims and objectives of the EURAISA-NET project overall.

- **Comparative experiences of regional instruments**

- **National laws & possibilities of dialogue**

- **Research policy – materials and publications**

- **Impact of EU in South Asia and the impact of South Asian research for Europe**

1. Introduction

The Cooperation and Support Action, under which EURASIA-Net is funded, promotes equitable dialogue and the development of long-term durable research partnerships, understanding that joint research projects can generate added value and cost effectiveness by exploiting the resources and scientific excellence of the partners, funding new research, exchanging know-how and transferring technologies, and providing on-the-job training and work experience. It also focuses on how international research co-operation can help stimulate socio-economic development and global competitiveness.

The EU has been actively involved in promoting human rights as part of its external relations with neighboring states, new member states and prospective member states, such as those of the Western Balkans. Conclusions drawn from the Eurasia-Net project emphasise the vital importance of the EU continuing to be actively involved in South Asian politics and the promotion of a research agenda, not only in terms of aid packages and bilateral or multilateral trade relations as has previously been the case, but also in terms of transnational security issues related to voluntary and forced migration, trafficking, counter-terrorism, the environment and pandemic health issues. The different experiences in EU and the South Asian region in terms of conflict resolution and conflict management, and the promotion of minority rights, each based on its own legacies of violence or non-violence, conflict or reconciliation, can provide a useful comparison for understanding the micro-level causes and effects of conflict itself.

In addition to work done by the Council of Europe and the EU in this field, significant contributions in the field of minority rights are made by another inter-governmental organization, the Organization of Security and Co-operation in Europe (OSCE). The concern shown for the subject of minority rights within the OSCE stretches back to the Helsinki Final Act. The Copenhagen Document is valuable for the propagation of minority rights. Similarly, the Oslo Recommendations regarding the Linguistic Rights of National Minorities and the Lund Recommendations on the Effective Participation of National Minorities in Public Life are also based around pre-existing legal standards. The Oslo Recommendations deal with subjects as far reaching as 'names', 'religion' and 'the media'. The Lund Recommendations deal with two main topics, the participation of the National Minority in the 'governance of the State as a whole, and self-governance over certain local or internal affairs'.

Research on minorities in Europe within the European Research Agenda, which supports the development and support of research on potential threats to human rights, is how the EU can design and implement more comprehensive policies. The EU has recognized that major global challenges such as climate change, poverty, infectious disease, threats to energy, food and water supply and security of the citizen highlight the need for effective international research cooperation. The Programme on Social Sciences and Humanities of the Fifth, Sixth and Seventh Research Framework Programmes of DG Research (RTD) of the European Commission has addressed various dimensions of human rights and minority rights through a multilateral approach in funded research projects.

Researches on the minorities in South Asia are not centrally organized, or are not conducted according to any collaborative plan. Indeed, conducted at various levels sometimes they act at cross-purposes with one another. In the absence of a clearly laid out, coordinated and coherent

research policy on minorities, we find considerable difficulties in assessing it. Research policy in that sense can serve as a catalyst for changing the terms of our ongoing discourses. Research on the subject of minorities in Europe also suffers from a lack of central coordination and organization, not least because of a failing in the common conceptual understanding of a definition. That said, and as shall be discussed further, researchers and analysts can rally around the regional instruments which engage with minorities (e.g. the Framework Convention on National Minorities and European Charter for Regional or Minority Languages).

2. Comparative experiences of regional cooperation

2.1. Introductory remarks

In the case of South Asia, however, an objective analysis of minorities and their rights continues to face difficulties not only from the approaches of States, but also there is little exposure to issues from amongst the research communities themselves. While most of the studies in South Asia focus on minorities within their respective countries, there have been very little – if at all – in the existing literature either by way of comparing them or discovering their continuities and linkages. The researches on the minorities in South Asia reflect little pan-regional awareness. Historical and cultural continuities provide as it were with an ideal case for comparing the minorities across the countries of the region.

Since the East Pakistan conflict, the foremost regional organization within South Asia is the South Asian Association for Regional Co-operation (SAARC). SAARC, which consists of eight states of South Asia was formally established in December 1985. The current membership of SAARC comprises of Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka. In terms of its population, SAARC is the largest organization: the combined population of its Member States consists of over 1.5 billion people. SAARC, much like the European Union (during the European Union's initial phases), was devised as primarily a political organization with the objective of greater economic cooperation amongst member states. There was a similar institutional lacuna in SAARC for the promotion and protection of individual human rights or minority rights. That said, the institutional framework of SAARC has provided opportunities to debate and examine key issues relevant to human rights and minority rights of the region. Declaration on the Conditions of Minorities in SAARC Countries, adopted by the delegates to the workshop on this concern, discussed the issues of minority rights as a priority among the member states. Having said that, in practice, SAARC remains as a minor player in so far as resolutions of regional disputes are concerned. The intransigence of the two larger states, Pakistan and India, over a number of issues including Kashmir, has been a major disappointment. Similarly SAARC has had an unimpressive record in dealing with notable conflicts such as those involving the Tamils in Sri Lanka, the Adivasis of the Chittagong Hill Tracts (in Bangladesh), Nepali-speaking Bhutanese (residing in Nepal) and the Maoist rebels (in Nepal).

In this regard, there is clearly a contrast with the position in Europe. It could be argued that one major reason is that Europe is now a 'melting pot' with a mix of ethnic, racial, linguistic and religious groupings. Furthermore, the institutional mechanisms led by the Treaty of Rome (1957) and the Council of Europe (1949) have engineered mobilization and realization of rights,

including human rights . The ECHR was adopted in 1950 and came into operation in 1953 and currently provides protection to well over 800 million people. The vision of ECHR on minority or group rights, however, is particularly thin. The provisions of the European Convention on Human Rights as well as the jurisprudence arising from the Strasbourg institutions has reflected the difficulties in advancing the cause of minorities as distinct entities; it is the absence of the focus on group rights that is problematic (Harris et al 1995). The ECHR contains a number of provisions relevant to protecting the interests of minorities. However, it is only Article 14 (providing for a regime of non-discrimination) and Protocol 12 (providing for a general prohibition of discrimination) that direct references to minorities are made.

In the European human rights agenda, another significant role is played by the EU's European Monitoring Centre on Racism and Xenophobia (EUMC), which became on 15 February 2007 the EU Agency for Fundamental Rights (FRA). This institution, based in Vienna, is tasked with developing policies relating to fundamental rights for EU institutions and member states. Its purpose is also to assist the EU-institutions (but partly also the member states, especially when they are implementing EU law) in promoting fundamental rights and avoiding violation of the latter. Racism, xenophobia and intolerance continue to be priorities within its extended mandate.

2.2 Common regional issues

2.2.1 Migration and nation-states

By all accounts, migration across nation-states has increased multi-fold over the recent years. Although an early attempt to study some of these population flows was made, it certainly requires to be revisited in the changed context of globalization in South Asia. The 'mixed and massive' population flow has not only created new minorities but also triggered off schisms between the locals and the migrants and many of the societies of South Asia seem to be bursting on their seams. While the host country may have its reasons to feel unhappy with the massive immigration from across its borders, the sending country conveniently 'dumps its excess population' and refuses to acknowledge it. This has sometimes caused diplomatic standoffs between the countries of South Asia. It is true that such 'Alice-in Wonderland' policy is unhelpful, for, a solution will always elude us if the problem is not recognized in the first place. On the other hand, there cannot be any unilateral solution to such issues. A trans-regional platform is ideally placed to first of all recognize minority-producing cross-border migration as a problem and then to evolve possible strategies of addressing it. Researches on scenarios of individual countries can at best be partial in their understanding of the magnitude and impact of such immigration and the interruption it causes to governmental operations.

Mobility, de-territorialization and shifting boundaries play a crucial role in South Asia: with the partition of India, Pakistan and Bangladesh, substantial reconfigurations through migration and other regional mobilities instigate the constitution of non-territorial identities. This counts for those belonging to majorities in one country and to minorities in another, but also for minority populations living in borderland territories. Mobility, new understanding of identity, and the ensuing grievances and claims pose challenges to both, EU and South Asia. With the enhanced mobility, collective identities 'stretch' across national borders, and complex local constellations

of belonging come to life resulting from the accommodation of migrants within territories inhabited by those who claim being indigenous to the territory. Such collectivities as Albanians, Polish, and Pakistani in Europe, and a number of religious, linguistic and ethnic minorities in India are not associated with a specific territory. In consequence, new dynamics of mobility and belonging call for a re-conceptualisation of legal frameworks for recognition (resulting in legal pluralism), distributional patterns of public expenditure (welfare, development), (bridging) civil society constellations as well as the political culture of conflict mitigation and conflict resolution. Non-territorial identities bring about the necessity to look at cultures of governance and conflict resolution for local societies comprising those not having territorial identities in relation to territorial ones.

European research has paid extensive attention to minority-related dilemmas emerging within the configuration of the nation-state but a new focus now needs to be developed on issues related to human mobility and freedom of movement by minorities and others throughout Europe and beyond, as well as their human rights implications, such as to exercise freedom of expression and religion, right to education and others. In recent years, the EU has developed an ambitious programme, the 'Global Approach'. This consists of three dimensions: the management of legal migration, the fight against illegal migration, and migration and development. Initiatives have been taken under all these headings, ranging from 'mobility partnerships' and the Blue Card for skilled migrants, to measures for dealing with illegal immigration, and longer term actions designed to address the 'push' factors causing emigration from developing countries. This is crucial when referring to an individual's freedom from discrimination as well as the fundamental rights and security of residence of those who are on the move (e.g. Roma). As a result, the policy of Freedom of movement of persons within EU clearly stands out as a significant contrast to the policies pursued in South Asia. Although, it is clear that there continue to remain substantial issues as regards freedom of movement in so far as EU nationals are concerned, there remain areas of concern, e.g. rights (including political and economic rights) of EU nationals in some member states; the position of partners or spouses of EU nationals who are non-EU nationals; factors relating to long-term residence of EU nationals in an other member State (e.g., work and pension related matters).

Europe has experienced century-long internal migrations and a significant influx of migrants from other continents, including South Asia, gaining momentum from the mid-20th century onwards. As a result, Europe and its national societies display a high degree of diversity in their cultural and religious composition. The European separation of law and religion is under scrutiny and currently in a transitional phase due to new challenges faced by the mass migration to Europe. It is therefore impossible for European States, including the EU, to avoid measures on diversity management. In this regard it is of critical importance to examine and learn from South Asia, with its unique experiences of diversity and plurality. Significant differences prevail in Europe with regards to the percentage of immigrant populations within national borders as well as to the national populations' self-understanding as 'immigrant societies' – that shape attitudes towards the 'new-comers'. In contemporary terms, there remain significant concerns as regards the European model of plural societies – some would suggest the official state policies are closer to forced assimilation of minorities. Differing patterns emerge as to how immigrant religions and cultures weave into the fabrics of the European 'arrival societies'. Given the enduring and diverse European preoccupations with immigrant religions (Zolberg and Long,

1999), it is not surprising that the EU has been preoccupied with the question how to tackle the relation between religion, state, and society. In the drafting process of the European Constitution, the pre-existing national *status quo*-arrangements have been left intact. Approaches to this issue differ across the EU; they embrace modes of separation between state and church (France), exclusive establishments (England) as well as the highly differing arrangements for states' public recognition of religions in the Netherlands, Germany, and Belgium (Casanova, 1994). The Netherlands adopted the approach of diversity management (Baumann and Sunier, 2002). In England, accommodation practices tend to highlight ethnic and religious difference. The pluralist rights-based approach in the UK is quite different from the assimilation strategies in France -that has embarked on a rather different path, embracing republican ideals that seek to define national commonalities by criteria other than cultural elements (Benhabib, 2002), and especially seeks to keep religious manifestations away from the public sphere. In Germany, where Christian religions have been accorded more space outside the private domain, prolonged societal conflicts regard the non-Christian religions' – especially Muslims – access to spaces considered 'public'.

2.2.3 Minority languages

In the framework of minority rights language is probably the issue, which in Europe has got major attention in both, the legislation and implementation, but also in research regarding its impact on social and cultural reality. The Council of Europe's adoption of the Framework Convention for the Protection National Minorities and the European Charter for Regional or Minority Languages represents an important development for minority protection. The OSCE and the Treaty of Lisbon has also brought the subject of minority rights to the forefront of its agenda, recognizing the importance of such rights in order to ensure peace and prevent future conflict.

Consequently the two major international covenants today in force in Europe (the Framework Convention on National Minorities and the European Charter for Regional or Minority Languages) attach to the language rights utmost importance. A comparative study in linguistic rights of ethnic minorities of South Asia and Europe is, therefore, needed. This kind of comparison between Europe (the signatory states of the FCNM) and India in particular could be done focusing on some basic linguistic rights: the right of public use of its language, the right to use the language in public sphere in contact with public authorities and bodies, the right to be taught in its mother tongue, the right to information in minority languages. The comparison should analyse the legal provisions adopted in various states and evaluate the progresses and in different case studies. In some cases evaluation of linguistic policy is well established. What has been done so far in India and in South Asia so far? Which are the grievances and proposal of the concerned ethnic minorities? What's about the "threatened languages" and "peoples" in Europe, India and other South Asian countries due to discrimination and denial of basic rights? This kind of research on a methodological level could also lead to a useful scholarly exchange with regard to methods of investigating and empirical measuring the "comprehensive situation of a language". After all, in a region like South Asia and perhaps elsewhere, minorities can seldom be treated as a homogeneous category. There are individuals and minorities within minorities including women, children, gay men and lesbians, religious dissenters and linguistic

minorities within religious minorities. In this context, it needs to be acknowledged that South Asia is a considerable distance away from Europe in developing any firm transnational guidelines on minority rights.

Both these initiatives of OSCE, however, have been hampered by the reluctance of many states to set clear legal standards and subject themselves voluntarily to international monitoring. What they furthermore have in common is that their legal or political instruments have relied on their ability to commit member states to minority protection through the promotion of moral norms. This means that the type of policy transfer that these organizations have intended is not coercive, but builds on the rational interests of the members and the perceived necessity of policy change among them (Vermeesch, 2003). While acknowledging the difficulties with drawing conclusions from such subjective norms, he suggests the following approach to EU policy documents. "The EU's conditionality policy has clearly led to at least some limited forms of policy transfer... [...] Most of the policy documents relating to minorities have been issued *after* the publication of the European Commission's Agenda 2000. This suggests that most of them have responded to the European Commission's monitoring activities, or perhaps have anticipated such monitoring". The term 'minority rights policies' when taken as a holistic approach in this context, therefore, does not refer to a specific and uniform policy programme, but to a wide range of policies which have in common that they all in one way or another recognize and accommodate the demands of communities distinguishing themselves from majority populations by religious, linguistic, cultural and other characteristics that are considered 'ethnic'. Minority rights policies can thus offer forms of protection that go beyond the basic civil and political rights guaranteed to all individuals in a liberal democracy.

Examples may be taken from the practice regarding the effective political participation of national minorities, such as the introduction of minority self-governments; the granting of territorial or cultural autonomy to minority groups; the funding of activities and organizations of national minorities; the introduction of particular forms of affirmative action, guaranteed representation, media and minorities; research policy – materials and publications. Other measures may include research policy – impact of EU in South Asia and vice versa; comparative experiences of regional instruments; legal pluralism, national laws and possibilities of dialogue.

2.2.4 Bilateral agreements with regard to minorities

Minority accords of South Asia signed between two states of the region constitute yet another almost virgin area of research. While ethnic accords signed between organizations claiming to represent ethnic groups especially minorities and the state have been one of the favourite subjects of research, accords between two nation-states focusing on the question of bilateral or multilateral minorities are yet to attract the attention of scholars and researchers. A close study of select accords may provide us with clues to supra-national bases of cooperation for minority protection in the region of South Asia. Here again, there is a considerable contrast with Europe, which has had a long history of minority accords and bilateral agreements amongst nations States, even though in many instances these proved redundant. The minority rights treaties conducted under the auspices of the League of Nations provides a useful example; a further example is that of inter-State treaties agreed upon in the aftermath of the Second World War.

Further EU-led policy approaches relating to cross-border issues include the adoption of the European Neighbourhood and Partnership Instrument (ENPI) which has considerably enhanced the scope for cross-border cooperation, both qualitatively and quantitatively and can be utilized to address the protection of minorities. Cross-border cooperation is an integral component of the EU's European Neighbourhood Policy (covering the countries of Eastern Europe, the Southern Caucasus, and the Southern Mediterranean), and of the EU-Russia Strategic Partnership. It likewise figures in associated policies such as the Euro-Mediterranean Partnership (Barcelona Process), and the Northern Dimension.

2.2.5 A new regional approach in South Asia for minorities?

Perhaps for the first time in South Asia, the human rights thinkers raised the demand for the constitution of an independent National Minorities commission as a Constitutional body with adequate powers to intervene in all instances of infringement of minority rights. At a supranational level, the South Asia Forum for Human Rights (SAFHR) led the formulation of a regional agenda on the issue of minorities. Human rights thinkers urged on the SAARC to create the office of a Special Rapporteur, who should be empowered to review and report every year the Heads of the States of South Asia on the status of minorities in the countries of the region. In addition, The SAARC Social Charter signed by the 7 states of South Asia on 4 January 2004 is considered as a remarkable advancement in the field of protection of minority and group rights including those of the elderly, the women and the children. Although the term 'minority' has never been explicitly used, the idea - as Clause 2 (XI) of Article II explains - is to secure for 'the disadvantaged, marginalized and vulnerable persons and groups' legal rights and make 'physical and social environment' accessible. While legalization of their rights is an effective first step, the Charter also puts emphasis on obtaining enabling conditions for their observance and protection. Unlike South Asia, there is now a growing and firm tradition of national commission for protection of individual and collective rights. There is also, as noted a rooted tradition of transnational protection of human rights through such organization as COE and EU.

At the instance of the International Centre for Ethnic Studies (Colombo), a Statement of Principles on Minority and Group Rights in South Asia was drawn up and revised in April 2006. A South Asian Charter on Minority and Group Rights was elaborated on the basis of the Statement by a group of voluntary organizations across South Asia including International Centre for Ethnic Studies (Colombo), Centre for Alternatives (Dhaka), Human Rights and Democratic Forum (Kathmandu), Mahanirban Calcutta Research Group (Kolkata) and Human Rights Commission (Karachi). The main aim of the Charter published in May 2008 is to effectively address minority issues and concerns, which cut across countries in South Asia and enhance regional responses to some of the current weaknesses in constitutional and legislative protection and promotion of minority and group rights. More specifically, the Charter may be used 'as a reference tool for Governments, non-State actors, human rights institutions, NGOs and human rights advocates and policy makers to draft national legislation, promote legislative reform, undertake advocacy, influence decisions, policies and programmes to ensure that they focus on the promotion and protection of minority and group rights'.

As a follow-up to this Charter, Basu Ray Chaudhury on behalf of Mahanirbar Calcutta Research Group (partner of EURASIA-Net) drafted another Charter on Minority Rights in India, which was subsequently published in August 2007. While taking off from the assumption that 'the Constitution has not always been able to reflect the realities of majoritarian basis of the Indian polity, the poor state of the protection available in the country, and the low level of the constitutionally acknowledged minority rights', it lays down a set of 11 Principles on the basis of which constitutional and legal provisions are likely to function. In simple terms, the Principles do not seek to introduce any new principle to the Constitution or the legal system but aim precisely at reinforcing them and most importantly the secular ideal embodied in them. While the South Asian Charter is expected to be 'reaffirmed and adopted' by the States Parties, the Principles are laid down in the form of some moral imperatives to be followed by the Indian State because they are inconsonance with the legal and Constitutional provisions. The Principles per se are not enforceable, but only facilitate the enforcement of the already enforceable provisions. Besides, the Indian Charter envisages synergy between 'the State, authorities, public and private organizations, institutions, corporations, NGOs, groups or persons, public officials and private individuals, whether State or non-State actors and irrespective of their legal status' that, according to it, is absolutely essential for ensuring their enforceability.

3. National laws & possibilities of dialogue

3.1 Regional territorial and non-territorial autonomy

One of the key issues for the future research agenda at national level, is regional territorial autonomy – sometimes in combination with cultural or personal autonomy. In both concerned areas, Europe and South Asia, this has been a major issue when it came to develop instruments for both ethnic minority protection and self-governance. Regional autonomy as a specific power sharing arrangement between the central and regional government level has a proven potential of conflict solving when addressing the needs of a homogeneously settling minority population or smaller peoples in given limited territory. The State-nation concept was primarily developed post WW II, whereby the majority defined the state institutions and the subsequent values and norms attached to that state to the exclusion of minorities. Discriminating state and social policies has contributed in the formation of National/Ethnic/Caste identities in Nepal, for example. Whereas Europe since 1921 has experienced the establishment of some 36 autonomous regions in 11 states (9 of whose are members of the EU + Moldavia and Ukraine), in South Asia regional autonomy so far has been adopted only in India. India has a decades old experience with territorial autonomies especially on the sub-state district level. Jammu & Kashmir, after a first period with fully autonomous status, in the 1950ies lost its special autonomy status (according to article 370 Indian Constitution), which contributed to the ongoing conflict and unrest in the area. Apart from creating new states, a range of accords and unilateral measures on several regions have been created either as autonomous areas or district councils under the Fifth and Sixth Schedules of the Constitution. Nepal with its new constitution, to be forged in the coming months, will probably transform into a federal republic in order to cope with its ethnic and cultural diversity, whereas in Sri Lanka the efforts of federalising the

state's structure as a compromise with the Tamil minority dramatically failed re-igniting the civil war. In Bangladesh the long struggle of the Chittagong Hill indigenous peoples for their fundamental rights and territorial autonomy did not yet lead to a lasting and stable solution: the first treaty on which the central government in Dhaka and the concerned minority peoples convened, did not match their expectations and needs. In Pakistan, besides the general requirement to reform the federal structure, the issue of regional territorial autonomy is concerning especially the Northern Areas of Gilgit-Baltistan, a huge region trapped in the Indo-Pakistani conflict on Jammu & Kashmir, deprived not only of the right to self-governance, but also of the fundamental rights to democratic participation. The subject of regional territorial autonomy, has been one of great significance both at the constitutional level of European States as well as at the regional level. The transformation of certain European States such as Spain from a Unitary State to Federalists have led to the resolution of long-term territorial disputes. In some instances, regimes of autonomy (such as in the UK) have allowed minority groups to assert influence in the political and constitutional debate. All these changes and movement for change have been accompanied by considerable scholarly interest.

In South Asia, attempts are now being made to explore newer institutional alternatives. We may refer to at least three interesting strands, not necessarily mutually exclusive, of this debate: First, reform-minded scholars and activists recommend a Scandinavian Sami-like multi-layered parliamentary system in which ethnic communities will have the right to represent themselves instead of being bound by the majoritarian commands of the existing parliamentary system. Secondly, some have argued that the 'first-come-first-served' electoral system in which the minorities dispersed over a large space are constantly under the subjection of the numerical, and therefore political, majority is incompatible with the pluralistic nature of South Asian societies. Even reservation of seats for them will not help the situation. Introducing proportional representation is considered as a means of protecting these groups from majority rule and retaining their autonomy. Thirdly, a case has been made for widening the consociational base of our democratic system. Lijphart (1996), for example, shows how the basic preconditions of a consociational (power sharing) democracy were met during the first few decades of India's independence and how that base has been weakened as a combined result of 'centralization of the Congress Party and the federal system' in the 1980s and growing 'attack on minority rights' in different parts of India. He in fact pleads for resuscitating the institutions and practices of consociational democracy that, according to him, protected India reasonably well in the first few decades against inter-group violence and communal riots.

3.2 Institutional reforms

While suggesting the possible policy alternatives, one has also to explore how such non-territorial forms of minority representation might spill over the international borders and include more than one nation-state for consideration. For example, a 'Work Permit' regime that is believed to be situated between the formal principle of territorial sovereignty and complete impenetrability of international borders and the popular practice of disregarding them by way of immigrating from across the borders. The regime implies a certain blurring of the distinction between citizens and foreigners considered as central to the identity of any nation-state. A person working in the host country with a permit is not considered as a citizen and is obliged to

leave it as soon as the tenure of permit expires. But such a regime is expected to address the problem of rising demand for cheap and inexpensive labour currently filled up by the 'illegal' immigrants for all practical purposes. The regime can operate provided both the sender and the host countries agree to introduce it. South Asia provides a vast and hitherto un-researched field of all such experiments with various institutions and such an exercise shall be initiated. Labour immigration continues to be a significant and divisive issue in Europe, however, in the context of EU firm principles have evolved which make it impermissible to discriminate against EU nationals in the labour market. Research priorities in this field, for both South Asia and Europe include sub-autonomy within regions to smaller groups, the empowerment of all ethnic and linguistic groups, the protection of minority and human rights, individual rights within groups, Indigenous rights over land and natural resources [where appropriate] and full participation in the democratic process. Federalism is an important structural procedure to address this by taking government and policy closer to the electorate, but it is not sufficient to address the problem of minorities within minorities, for example. Other institutions are needed to address this; affirmative actions for Dalit women, reservations. Accommodation of difference and perspectives of reconciliation have been examined throughout the Eurasia-Net project through considering best practices and policy.

In the perspective of all these, any strategic policy of research must also take into account the historical interplay of European and South Asian experiences. Common to both the EU and in India, is the search for operating and establishing norms that will be acceptable to those who are its members, whether these are individuals, minority communities or states. While the process in the EU involves movement from separate nation-states seeking membership of an emergent European political community towards a slow coming together of nations-states in an expanding Europe, the process in India is the reverse where a more federal, more decentralized state is emerging, rather than the centralized state formed at Independence. Here too, the number of constituent states is growing. This process of an emerging federal community, in both India and EU, that is to be based on common operating norms, involves a process of negotiation by the constituent units. These negotiations concern the rules that are to govern the political behaviour of both individuals and states and that will serve as the basis of its institutions that will regulate the political, social, economic, and perhaps even environmental life, and significantly to ensure diversity amidst the emergent community.

This is a fascinating process because it remains unclear, in both contexts, whether this emergent political community should be a 'thick' or a 'thin' community; whether the operating norms that are being negotiated should govern only a minimalist political community or should also extend to the social, economic, cultural and even ecological domains of the emerging community. The question on which there is scope for furthering research is: What should be the extent of this extension of norms? In both the Indian and the European Union the political community is layered, within the European case, the "thick" political community being at the level of the states and the "thin" at the level of Europe Union, while in the Indian case there is perhaps an equal distribution between the union and the states. A look at the historical evolution of the political community shows that both deliberate design and fortuitous circumstances (Umberto Eco's 'Serendipity') have played a part. Not every institution has emerged because of the lack of a general agreement among negotiators. Some have emerged because of responses to events

and these have subsequently proved to offer valuable norms for the new polity, such as the public interest litigation in India and the human rights jurisprudence in Europe.

3.3 Legal pluralism

Currently in India, the vision of a uniform civil code is less sustained in politics. The Indian constitution gives the possibility to have more legal systems; and, in the practice of the of the courts, one may see that legal pluralism is in place. Moreover, there is a need to research also the applicability of minorities' customary law.

In the name of the collective rights and identity, however, the individual rights become increasingly suppressed; it is a delicate balance. E.g., affirmative actions encounter problems of application in South Asia. The example of the quota in the state of Tamil-Nadu is self-explaining. The 75% of public posts are determined by quotas. Paradoxically, the upper caste is considering to ask for a quota as well. In the northern Indian states a demand is currently advanced for quotas even in the private sector. The debate is very high.

Therefore, the quotas system may not be an answer *per se*. In the legal pluralism discourse the application of both laws may become very controversial (e.g., applying the national and the Muslim laws). The mechanisms to preserve diversity and what institutions may applied to the single case shall, be, therefore, further explored in the future research agenda.

3.4 Media

Finally, within EURASIA-Net project research it was also noted that there is not much difference in media approach towards minorities in Europe and South Asia. Three key areas call for addressing in both the regions – a) Under-representation in the media sector (like, very few Turks are recruited in the German Media, and very few indigenous people in the media of Tripura and Assam of India, b) Media content – that is, how are minority issues reflected in the media?, perpetuation of stereotypes (particularly TV), equation of Muslims with terrorism in media and so on, c) Media Use – Majoritarian media does not reflect minority issues. As a result, a specific minority media emerges and comes to dominate within the minority community. This has been viewed by some as a threat to integration. Minority representation amongst the media persons and orientation and sensitization towards the minorities were cited as two important areas in formulating an appropriate media policy. Suggestions are made to develop a guidebook for minority reporting, for dissemination of information to council of Europe or SAARC. The need for encouraging media to adopt self-regulation and evolve a code of conduct was also felt. Journalists' bodies with monitoring responsibility could also be set up.

4. Research policy – materials and publications

South Asia as a region has generated a rich and growing body of minority rights literature particularly since the late 1980s. Yet it is important to note that much of this literature is not focused on any exploration into possible policy alternatives in order to address the issues and questions underlined above. The region is still a long way from evolving what may be called a policy culture where concerned people can continuously debate on minority problems and possible policy alternatives. The debate on policies and institutions has already begun. Efforts are being made to break free from the paradox inherent in the early framework of state building in which consolidation of a particular community within a geopolitical space necessarily creates its minorities. For example, the vicious circle in which a minority becomes a majority by way of getting the borders redrawn and thereby creates its own minority and the circle continues to roll with alarming regularity is inherent in India's established federal setup.

Research on minorities of South Asia - otherwise rich and growing - fail albeit with notable exceptions in lending a pan-regional and supranational focus to them. By contrast, South Asia provides the example of a region where both minorities and majorities are caught in a complex web of social, economic and cultural relations across the state borders reorganized particularly in the wake of Partition. The reality of supranational and cross-border linkages is completely incompatible with the current research boom that mostly focuses on minorities insofar as they are confined to state territories and thereby become victims of discrimination. Solutions interestingly are sought at the national level by way of subjecting them to the reasons of government, by firmly emplacing them within the national body and converting the minorities as a category of powerlessness into a merely numerical category. A research policy that probes into these linkages and connections can throw light on the possible policy options of how we can provide for better and more effective protection of minority rights particularly at a time when minorities have increasingly become the object of active discrimination by various social forces including the states of South Asia within their borders.

EURASIA-Net publications tried to contribute to the research debate in South Asia. These included: scientific articles or publications, educational materials and materials for specialized media. Stress was given on the need to produce other tools of documentation in addition to classical approach of articles for academic publication. It was felt that this would allow research to reach wider audience. There was also interesting suggestion that research data could also be utilized in creative ways like for example, to make documentary films. The same data could also be used to produce multiple outputs. In this way data could be used for dual purposes and readers would also be highly benefited as there would be better access to the findings. Cross-cutting work was considered as more interesting than analyzing issues country by country, particularly given the project's focus on regional collaboration.

5. Impact of EU in South Asia and the impact of South Asian research for Europe

The EU- its inception detailed in pt 1, geopolitically, adds value to the 'global peace and security architecture' which is different in nature from the UN, the Organisation for Security and Cooperation in Europe (OSCE), Organisation for Economic Cooperation and Development (OECD), World Bank or International Monetary Fund (IMF). Furthermore, and in addition to the presence of Member States, the EU has delegations in more than 130 countries, many of which are based in fragile states. It has cast a web of dense and privileged political and economic relations over many countries – in particular within the framework of the Cotonou Partnership Agreement with the ACP. The EU is also involved in a number of special missions in many (mostly post-conflict) countries, such as for instance its police mission in Afghanistan.

What is needed is a programme for establishing a Eurasian think tank that will help in coordinating knowledge amongst its diverse sources. . There is a tradition of Indian and South Asian studies in many European MS however: the International Institute for Asian Studies of Leiden, the *Centre d'études de l'Inde et de l'Asie du sud* in France, the *Suedasien Institut* of Heidelberg University, the Centre of South Asian Studies of Cambridge University, the Department of South Asian Studies at the University of Warsaw, SASNET in Scandinavia and the Nordic Institute for Asian Studies in Copenhagen, to mention some of the most well known institutions. But the very significant challenge of developing a robust promotion of minority protection within the varied polities of the EU and South Asia has not yet been the object of an in-depth analysis, and all attempts to focus on this research subject suffer from fragmentation and a lack of structured cooperation by Indian and European researchers. European examples include:

- European Insitutute for Asian Studies , Belgium
- Overseas Deveoopment Institut (UK)
- [Estudios de Politica Exterior](#), Madrid (Spain)
- [Fundacio CIDOB](#), Barcelona (Spain)
- [Danish Institute for International Studies](#), Copenhagen (Denmark)
- [Roskilde University Centre](#), Roskilde (Denmark)
- [Department of Strategic and Defence Studies](#), Finnish National Defence College, Helsinki (Finland)
- [Institute of Development Studies](#) (IDS) University of Helsinki (Finland)
- [Centre des Sciences Humaines](#), New Delhi (France) [CERI](#),
- Centre d'Etudes des Relations Internationales, Paris (France) [Institut für Asienkunde](#), Hamburg (Germany)
- [Hellenic Foundation for European and Foreign Policy](#) (Greece)
- Institute for Economic and Industrial Research (Greece)
- Front Line, Dublin (Ireland) [Dublin Centre for Asian Studies](#), University College Dublin (Ireland) [CESPI](#),

- Interkerkeeklijk Vredesberaad, The Hague (Netherlands)
- Centre for Asian Studies, University of Amsterdam (Netherlands)
- [ECCP](#), European Centre for Conflict Prevention, Utrecht (Netherlands)
- [Instituto de Estudos Estrategicos e Internacionais](#), Lisbon (Portugal)
- [SASNET](#), Swedish South Asian Studies Network International Office, Lund (Sweden)
- [Demos](#) (UK)
- [Foreign Policy Centre](#) (UK)

A consensus has emerged that the Trans-national platform should be continued beyond the life of EURASIA-Net project. It is necessary to foster and support formalized cooperation between universities in Europe and South Asia. European Union should fund and open centre for peace studies in South Asia in order to promote collaboration and raise awareness. It was also realized that cooperation with the officials is a crucial aspect. Hence continuous cooperation should be recommended to E.U. The platform that the project has successfully established could turn out to be a possible training centre for EU officials going onto missions in South Asia. It was brought into forefront that a lot of rich data has been collected. So in each member state there should be an information point collecting, and reports should be sent each year to European Commission. This should exist in the South Asian states as well. European Commission or European Union, before announcing a new programme should consult with South Asian agencies to identify genuine needs first. Again, there should be consultation between European and South Asian agencies and a contact book should be there which would have the details of all important agencies or people of the region.

The way EU judges standards and criteria could also be implemented in the South Asian context especially with the advent of the Lisbon Treaty, there is now a constitutional principle relating to the resolution of conflict and promotion of peaceful coexistence within EU Member States; the first objective of the European Union being to promote peace (TEU article 3-1). However in the context of South Asia there remains a fear of demand for self-determination from groups. South Asia has an imbalance in power in the case of India. In contrast there is no single state dominance in Europe. Rather there are more power 'blocks' and contextual considerations. So it is not possible at the moment to draft a SAARC document based on framework convention as SAARC is a weak platform for these kinds of legal measure. A concrete position from SAARC on issues of refugees, disaster relief etc., would also be desirable. A possibility is also there of enabling taskforce to intervene in these issues or events. This could turn out to be the starting point of enhancing regional cooperation on humanitarian aids and security, which could again be extended to include issues of minority protection. However things should be ushered in gradually as to be too demanding could turn into counterproductive. Incremental approach is preferred which would probably be more effective. Tradition of bilateral treaties should remain important in formulating solutions.

The South Asian research agenda could be informed by the EU Committee of the Regions which notes that "local government should actively be encouraged to mesh their policies with policies operating at national and European levels to ensure a strong, united and transparent framework

for the promotion of innovation” Research policy governance in the regions has three aspects: policy shaping, policy making and policy implementation. Policy shaping is important, because it can be very efficient, while kept relatively informal and open. There exist already many consultative mechanisms, both formal and informal, which afford opportunities, including for regional actors, to contribute to research and innovation policy inputs. Regrettably, today regional imbalance of power and the lack of valuable political will by SAARC member states are hampering the whole regional lawmaking process. Given the South Asian reluctance in embarking on treaty –making processes, a soft law approach for the implementation of standards of minority rights protection seems to be more feasible solution for the region than hard law. Implementation of standards of human and minority protection should be pursued in a comprehensive way so as to include security and economic dimensions in its development.

The EU should therefore go beyond a government-focused approach to dealing with South Asia by working more actively to promote and encourage the development of non-state players in the region. Equally importantly, a new EU civil-society initiative – along the same lines as the continued trans-regional platform should be encouraged to encourage closer contact and cooperation between media, think tanks, academics, activists and women’s groups in all both regions

6. Lessons to be learnt

This project has clearly delivered on a number of fronts. It has confirmed the value of ascertaining a comparative national, transnational, regional and global level. Individual and collective rights have a national and a supranational dimension both in Europe and South Asia, and as has this project has established both regions have yet to learn fully from each other's experiences in terms of accommodating of human and minority rights. Europe, especially through the EU and COE has firm institutional mechanisms and yet there regularly emerge considerable lacunae in the protection of rights. In the context of South Asia, notwithstanding an ancient tradition of engaging with cultural, religious, linguistic and ethnic management, the region continues to lack in any formalised transnational mechanism of dealing with violations of rights. The research conducted in this project, particularly through the study visits, the analysis and debate in the summer schools and the EU delegation information sessions, has further highlighted both the strengths and weaknesses in the two regional systems. The project has impacted on the minds and thoughts of not only researchers, but has also allowed policy makers to consider issues of complexity and tensions. In essence EURASIA-Net has been successful in enhancing the much needed knowledge base for instituting new policies and strategies in reducing ethnic-religious conflicts and allowing for a greater measure of autonomy for both Europe and South-Asia.

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