

# Material for specialized media

## EURASIA-Net project



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## Table of contents

<b>I.</b>	<b>Introduction .....</b>	<b>4</b>
	I.1 Background.....	4
	I.2 Who are minority groups?.....	5
	I.3 What are minority rights and why are they needed?.....	8
<b>II.</b>	<b>Understanding of minorities .....</b>	<b>11</b>
	II.1 What is the understanding of minorities in Europe?.....	11
	II.2 A general overview on national minorities in Europe .....	13
	II.3 Religious minorities and the Muslim presence in Europe .....	17
	II.4 What is the understanding of minorities in South Asia?.....	20
	II.5 Indigenous peoples - should they be defined? .....	24
<b>III.</b>	<b>Legal provisions on the protection of minorities.....</b>	<b>27</b>
	III.1 How minorities are protected at regional level in Europe?.....	27
	III.2 Minority protection under the OSCE.....	29
	III.3 The European Charter for Regional or Minority Languages .....	31
	III.4 The Framework Convention on the Protection of National Minorities.....	34
	III.5 Minority protection in the European Union.....	38
	III.6 How do national laws and governments protect and promote minority rights In Europe? .....	42
	III.7 Minority protection under SAARC .....	44
	III.8 How do national laws and governments protect and promote minority rights in South Asia?.....	46
<b>IV.</b>	<b>The role of media in promoting minorities and their rights .....</b>	<b>48</b>
	IV.1 How can the media contribute to the promotion of minorities and their rights? .....	48
	IV.2 Media guide.....	50

**Annex: Selection of articles on Minority Issues for Media**

# I Introduction

## I.1 Background

Engaging with the European Public Sphere through initiatives such as Communicating Europe have become more and more important in recent years. The Vice President of the European Commission, Margot Wallström, who is in charge of the Institutional Relations and Communication Strategy, set a number of policy initiatives to improve information activities targeting European citizens.

A successful EU communication policy must center on citizens' needs. As written in the *White Paper on Communication of the European Commission*, the EU has to deepen the contact between its institutions and citizens. One challenge for the EU communication policy is to improve the understanding of science and research within European society. Since scientific knowledge has a daily impact on all European citizens, the objective of the European Commission is to make research and its outcome more attractive and understandable to the wider public.

The media are key shapers of public opinion. Effective communication with the public is increasingly necessary for the scientific community, but without media support this goal remains out of reach.

This set of materials for specialized media, elaborated in the frame of the project “EURASIA-Net - Europe-South Asia Exchange on Supranational (Regional) Policies and Instruments for the Promotion of Human Rights and the Management of Minority Issues“ (FP7 Coordination and support actions), contributes to this process of disseminating research results through media in the field of human rights and minority protection. It is crucial for media professionals to be familiar with the background, the facts and legal definitions and provisions concerning the understanding of minorities in Europe and South Asia. This edition focuses more on Europe and its ‘soft’ and ‘hard’ laws and mechanisms, whereas giving only a glimpse on the South Asian situation. The latter will be though further analyzed in an updated version of this set of materials, expected to be published in the course of 2009.

This set of materials should be used by editors, program-makers and journalists in charge of reporting on ethnic and religious minorities as well as issues dealing with cultural diversity. The aim of this work is to ensure a deeper knowledge, avoid prejudice and guarantee differentiated information to media consumers. Moreover it is supposed to function as a toolbox for journalists, contributing thereby to the constructive role the media can play in the context of the promotion of minorities and their rights.

### Useful links:

EC Margot Wallström “Communication Policy, Why Communicating is so important?“, at [http://ec.europa.eu/commission\\_barroso/wallstrom/communicating/policy/index\\_en.htm](http://ec.europa.eu/commission_barroso/wallstrom/communicating/policy/index_en.htm)

Europe Regulation of Minority Language Broadcasting (2004), at [http://www.obs.coe.int/oea\\_publ/iris/iris\\_plus/iplus02\\_2004.pdf.en](http://www.obs.coe.int/oea_publ/iris/iris_plus/iplus02_2004.pdf.en)

Legal Observations of the European Audiovisual Observatory, at [http://www.obs.coe.int/oea\\_publ/iris/iris\\_plus/index.html.en](http://www.obs.coe.int/oea_publ/iris/iris_plus/index.html.en)

## 1.2 Who are minority groups?

Ethnic, linguistic and cultural diversity is a fact of life in the present world; on the other hand, the existence of communities and people with different origin and socio-cultural characteristics creates various diversity dilemmas. Is homogeneity a precondition for solidarity, stability, peace and prosperity? Or can all this be achieved equally in a diversified society? How do we accommodate diversity? Should people living in inferior strata of our society be protected with special rights or rather be - just as every citizen - but be protected against discrimination?

There is no doubt that Europe and South Asia are both ethnically, linguistically and religiously diverse continents. Minorities and majorities alike differ in certain features like language, religion, tradition and customs etc. It is though not easy to define what a minority group is. Despite the fact that there is no universally agreed definition, the general understanding of a minority in the international sphere is “a group of people who have a common identity, based on culture, ethnicity, language or religion, which is different from that of a majority group around them” (Baldwin, 2007). Identifying minority groups only on basis of numbers would mean to generalize the assumption that a group inferior in numbers is also inferior as regards its political status - an assumption which proves sometimes to be false<sup>1</sup>.

Despite the lack of a universally agreed, legally binding definition of the term “minority”, international conventions, declarations and regional and national provisions provide a useful framework for identifying minorities and their rights. However one has to be aware that there is no model-minority and no model-solution for minority situation which would fit as solutions to all problems. The identification of minorities and their rights is therefore necessarily country-and region specific.

Politically speaking a minority-situation is based on the degree of political participation and social inclusion rather than on numbers of members of a specific group. Generally it refers to “outsiders” who are denied or prevented from full political participation in the respective society - be it for their distinct language, religion, culture, caste or ethnicity. Therefore scholars often use the term “marginalized group” rather than minority.

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<sup>1</sup> For instance in Colonial Kenya the political community was defined by the white European settlers. In South Africa the former Apartheid regime allocated all power with the small white population and Blacks were excluded from politics. Jackson Preece, Jennifer. *Minority rights: between diversity and community*. Polity Press, 2005, P. 10-11.

“A group, numerically inferior to the rest of the population of a State, in a non-dominant position, whose members- being nationals of the State- possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language.”

UN Special Rapporteur Francesco Capotorti

Study on the Rights of Persons belonging to Ethnic, Religious and Linguistic Minorities, UN Document E/CN.4/Sub.2/384/Add.1-7 (1977)

Francesco Capotorti’s definition is the most widely accepted theoretical definition of a minority. It establishes certain objective criteria such as numerical inferiority along with non dominant position and subjective criteria that include the sense of solidarity towards preserving the common culture, tradition, religion and language. However, it is argued that this definition could not be applied to the reality of South Asia, as it cannot accommodate groups or peoples that do not wish to preserve their distinct features. For instance, *Dalit* (a so called lower caste or depressed caste in the Hindu Caste system in India and Nepal, which are considered as untouchable by so called higher castes/dominant caste group) do not wish to preserve and transfer all their distinct features to future generations because they perceive their identity as being imposed by the dominant group.

Often it is argued that the identification of minorities is a matter of self identification rather than state demarcations, and that defining minorities should be a practical subject rather than a theoretical one. In fact, as already pointed out, it is widely recognized that ethnicity, culture, language and religion are the basis for distinguishing the minority from majority. However, not all ethnic, cultural, linguistic or religious differences between people do lead to the creation of recognized minorities. The major reason behind the failure to agree on a definition of minority is connected to the fact that a couple of countries do not recognize their minorities as distinct and separate groups. For instance, governments like France, Greece or Turkey have problems in officially recognizing their minorities. In South Asia a country like Bhutan does not even recognize its cultural and ethnic diversity.

In the European context the issue of minority protection in the stricter sense of the terms refers to historical minority groups that are the permanent residents of the state and desire to preserve their ethnic and cultural traits. Other categories of groups in a non-dominant position such as migrant people, refugees or tribes are generally not addressed in this context. Moreover, religious communities are referred to as smaller religious communities rather than as minority groups.

In conclusion one can say that the definition of what is a minority and who belongs to such a group is rather open. At the international level there is only a (legally non binding) consensus on the basic cornerstones of such a definition. The major problem in defining minority is that if the definition is too wide, the term ‘minority’ becomes meaningless and if it is too narrow it will hardly apply at global level. Whereas the Capotorti definition does reflect the prevailing understanding of minorities in international law, there is in South Asian still conceptual ambiguity in identifying the minorities due to existence of deeply rooted caste system, hundreds of ethnic groups, varieties of indigenous languages and culture.

**Useful links:**

European Centre for Minority Issues (ECMI), at <http://www.ecmi.de/>  
Minority Rights Group international (MRG), at <http://www.minorityrights.org/>  
Institute for Minority Rights (EURAC), at  
<http://www.eurac.edu/Org/Minorities/IMR/index.htm>  
UN documents, at <http://www.un.org/documents/>  
United Nations Guide for Minorities, at  
<http://www.unhcr.ch/minorities/publications.htm>

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Jackson Preece Jennifer, *Minority rights: between diversity and community* (Polity Press, 2005)  
Jackson Preece Jennifer, "Who is a minority?", in Bohnet, A., Hoehner M., *The role of minorities in the development process* (Peter Lang, 2004), pp. 7-21  
Makkonen Timo: *Identity, Difference and Otherness: The Concepts of People, Indigenous People and Minority in International Law*, Eric Castrén Institute Research Reports 7/2000 (Helsinki University Press, 2000)

### 1.3 What are minority rights and why are they needed?

When addressing minorities and their rights often reference is made to a “two pillars system” of protection. One pillar refers to non-discrimination and the second one to minority specific rights including also group rights. This picture of two pillars makes evident that members of minority groups have to be protected both as regards their position as individual human beings as well as regards their collective identity as a group. In reality these two dimensions might not be as separate as the model of “pillars” makes us believe since members of a minority group take their individual minority identity (language, culture, ethnicity) from the very existence of a group identity and, at the same time, a distinct minority identity is dependent on a sufficient number of individuals identifying with that very collective identity. In that sense the collective identity of a minority group and the individual position of the members of that minority build two sides of the same undeniable coin - the existence of minorities and their resulting needs.

Legally speaking the pillar of non-discrimination focuses on the prohibition of being discriminated on the basis of prominent grounds of discrimination such as language, ethnicity, culture or religion. It is only obvious that this branch of protection “forms an integral part of the international protection of human rights” as is said clearly in Article 1 of the Framework Convention for the Protection of National Minorities (see in detail under point III.4). In this perspective minority rights are less “special” than one might think. Rather than establishing special legal regimes, they seem to foster political systems to provide that general human rights are de facto guaranteed to those who most urgently need them, namely marginalized groups. The means applied to arrive at that situation are for instance mechanisms of mainstreaming which oblige legislators, public authorities and Courts to guarantee that minority interests are properly taken into account when drafting laws, implementing legal norms or providing justice in legal proceedings. Such an approach can help to counterbalance the very fact that minorities are in general in a disadvantaged position and less represented in those (professional) groups dominating the making and the application of the law. Moreover giving special emphasis to minorities also counterbalances the fact that minorities are facing negative stereotypes within society. How far this special emphasis goes in a specific political system will depend on the specific understanding of equality applied.

Equality can be looked at from a formal or from a substantive perspective. A formal reading of equality just requires to treat everybody in the identical way. To provide all citizens with school education (exclusively) in the official language of state means to treat everybody equally. However, such a formal reading of equality leads to a situation where some people (normally the majority) is provided primary education in their mother tongue whereas other people (normally the minorities) have to attend schools in a language other than their mother tongue. Already the Greek philosopher Aristotle established that the principle of equality not only envisages to treat equal situations equally but also to treat different situations differently. A substantive reading of equality therefore wants to establish equality of opportunity, if not even equality of results. And at this background it gets also clear why minority rights are addressed in addition to the general human rights. Only if one takes the special disadvantages minorities are facing into account, it will be possible not to deny the right enshrined in



Article 27 of the International Covenant on Civil and Political Rights (ICCPR), namely not to deny the minorities' right "to enjoy their own culture, to profess and practice their own religion, or to use their own language". Often the specific situation of minorities is addressed by so called "affirmative" or "positive" measures. Such instruments provide for an active pro-minority behavior of the state guaranteeing thereby equality of opportunities to minorities. The Human Rights Committee when commenting on Article 27 underlined that states have the duty to adopt positive measures of protection in order to protect the identity of minorities. How far this duty goes, is of course open to discussion and depends on the very specific situation.

The second pillar of minority protection, namely minority specific group including group rights is less broadly accepted in international law. Under this pillar of measures states provide for far reaching forms of minority protection. They do not merely aim at equality of opportunities but go for equality of results. So for instance some states provide for education in specific minority languages, media in minority languages, topographical indications in minority languages, the use of minority languages before public authorities and Courts. Equally some states provide for mechanisms guaranteeing the participation of minorities in the economy (quotas in the employments sector) or compulsory participation of minorities in the political process (quotas in Parliaments). In certain systems one even finds forms of constitutional power sharing where regional minorities are provided with the privilege of self-government (territorial autonomy) or where certain minorities are provided with the power to rule on all agendas determining their own culture (cultural autonomy).

Federalism is the most well known constitutional system for providing autonomy to component units of a state. It is argued that a federal system is an appropriate model of power sharing in multi-ethnic states. However, as regards group rights, one has to say that group rights are still confronted with a certain degree of resistance and mistrust. Firstly, some states fear that granting special minority rights fuels demands for secession (instead of de-legitimizing calls in this direction). Secondly, in certain legal systems group rights are seen as violating the principle of equality. In fact one should underline that advantages granted merely on the basis of the membership to a certain minority group have to be proportional and loose there *raison d'être* once their aim (equality of results) has been achieved.

In conclusion one can say that an efficient system of minority protection will combine first and second pillar rights. Minority rights as foreseen in various international documents offer the states an efficient tool-box allowing for designing the most appropriate policy-mix for the case at hand. However, the enjoyment of these rights not only depends upon the state's laws and policies but also on the citizen's mutual respect to different religions, races, castes, ethnicities, languages and values. In this context one has to underline that the protection of minorities not only produces benefits for the members of minorities groups themselves but also contributes to preserve the legitimacy of every democratic system. In this sense Mahatma Gandhi was right in emphasizing the inter-relationship between the degree of civilization of a given society and the treatment of its ethnic minorities.

### Useful links:

Minority Rights Group, World Directory of Minorities and Indigenous Peoples, at <http://www.minorityrights.org/directory>

EDAP - European Diversity and Autonomy Papers, at <http://www.eurac.edu/EDAP>

JEMIE - Journal on Ethnopolitics and Minority Issues in Europe, at <http://www.ecmi.de/rubrik/60/jemie/>

### References:

Henrard Kristin, "Equal Rights versus Special Rights? Minority Protection and the Prohibition of Discrimination", European Commission, DG for Employment, Social Affairs and Equal Opportunities (June 2007), at [http://ec.europa.eu/employment\\_social/fundamental\\_rights/pdf/legnet/ervsr07\\_en.pdf](http://ec.europa.eu/employment_social/fundamental_rights/pdf/legnet/ervsr07_en.pdf)

Henrard Kristin, *Devising an Adequate System of Minority Protection: Individual Human Rights, Minority Rights and the Right to Self-Determination* (Martinus Nijhoff Publisher, Leiden 2000)

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Tarr G. Alan, Williams Robert F. and Marko Josef (eds.), *Federalism, subnational constitutions, and minority rights* (Praeger, 2004)

Thio Li-Ann, *Managing Babel: The International Legal Protection of Minorities in the Twentieth Century* (Martinus Nijhoff Publishers, Leiden 2005)

Thornberry Patrick, *International Law and the Rights of Minorities* (Oxford: Clarendon Press, 1991)

## II. Understanding of minorities

### II.1 What is the understanding of minorities in Europe?

Also at European level there is no legally binding and generally accepted definition of the term minority. Article 1 of the “European Charter of Regional or Minority Languages” (ECMRL) of 1992 and Article 1 of the draft additional protocol on the rights of minorities to the “European Convention on Human Rights” (ECHR) (adopted by the Parliamentary Assembly of the Council of Europe in 1993; Recommendation 1201) refer to “a historical minority group, which has long acquired a permanent status within a state and whose members are citizens and desire to preserve their ethnic-cultural traits that distinguish them from the rest of the population.” The term ‘national minority’ appears in Article 14 of the ECHR and has been recognised in the title of the already mentioned “Framework Convention on the Protection of National Minorities” (FCNM).

Thus ‘national minority’ in a European context always means a group (regardless of the size: the Livs in Estonia are barely more than 100 people, the Catalans in Spain more than 6 million) rooted in the territory of a state, whose ethno-cultural features are markedly different from the rest of the society. Some other categories of “differences”, notably migrant people, refugees and social groups such as castes or tribes, are not covered by this definition. Religious communities are in Europe hardly referred to as “minorities”. In most European states Christian churches retain a dominant position in the religious life of the majority of the population, whereas dozens of other communities by numbers are in a minority position. Nevertheless they are not referred to as ‘religious minorities’, but rather as ‘smaller religious communities’. According to the prevailing view minority rights are equivalent to the rights of ethnic-linguistic minorities, and do only exceptionally include also religious minorities, especially in such particular cases where religion is an important marker of cultural and ethnical distinctiveness of a group. This is the case in Northern Ireland, in Bosnia-Herzegovina, and with Jewish communities.

The affiliation of an individual citizen to an officially recognised minority depends only on the free choice and free declaration of that individual. And the existence of a minority as such does not depend on domestic legal acts of recognition. The protection provided to the different minorities of Europe does though not only vary drastically from country to country, but even within the single states.

As regards castes, unlike Asia, no European state accepts social categories or minority-groups which could be defined as ‘castes’ or ‘tribes’. Even though a few national minorities such as the Inuit and the Sami qualify as ‘indigenous peoples’, there are no ‘scheduled castes’ or ‘scheduled tribes’ in any European jurisdiction.

### Some clarifications on single terms

- a) The term 'nationality' has historically often been used to designate membership of a national community. However, nowadays it refers to the citizenship of a specific country rather than addressing an ethnic component.
- b) A minority is designated as a 'national minority' if it shares its cultural identity (culture, language) with a larger community that forms a national majority elsewhere. National minorities in this sense are, for example, the Germans in Denmark, the Danes in Germany, the Hungarians in Romania, the Romanians in Hungary, etc.
- c) In contrast to this, the term 'ethnic minority' refers to persons belonging to those ethnic communities which do not make up the majority of the population in any state and also do not form their own nation state anywhere, such as the Raetoromanians in the Alps, the Celts or the Gaelic-speakers in North-western Europe, the Friesians in the Netherlands, the Catalans in South-western Europe and a major number of peoples in Eastern Europe, especially in Russia. Such smaller communities or peoples in official texts are sometimes referred to as "groups speaking lesser used languages" to downplay their self-perception as smaller peoples.
- d) In some European countries the term 'linguistic group' or 'linguistic minority' is also used in legal terminology referring to minorities (Belgium, Switzerland, France). As in the European context language (not religion) is the decisive feature of an ethnic group or people, 'linguistic' and 'ethnic' are mostly used as synonymous terms. But it can be observed that 'linguistic' is also used when the problem of ethnic groups and their multifaceted nature is to be politically downplayed and differentiation of an ethnic group is to be reduced to language.
- e) Europe has over the recent decades become a continent of immigration. This holds true also for countries with a tradition of emigration such as Italy - a country which became a magnet for economically motivated immigration, especially from Northern Africa. Migrants, refugees and asylum seekers are however in Europe not considered as being a "minority" in the traditional sense despite the fact that many immigrants have the intention to stay in Europe. The notion of "new minorities" tends to underline the difference to traditional national minorities. Europe is struggling with its approach towards those minorities that also have special needs and - for instance after 3 generations- can hardly be in a long term perspective labelled as "new" in order to exclude them from minority protection policies.

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- Hogan-Brun Gabrielle, Wolff Stefan, *Minority Languages in Europe - Frameworks, Status, Prospects* (Palgrave/Macmillan, London 2003)
- Malloy Tove, *National Minority Rights in Europe* (Oxford University Press, 2005)
- Maurais Jacques /Michael A. Morris, *Languages in a Globalising World* (Cambridge University Press, 2003)
- Pentassuglia Gaetano, *Minorities in International Law* (Council of Europe, 2002)

## II.2 A general overview on national minorities in Europe

Between 1999 and 2002 in almost all European states census registrations have been carried out. According to the results in 2003 the number of persons belonging to a national or ethnic minority in Europe amounts to 75 million (10.29 per cent of Europe's total population) divided into 330 national or ethnic groups. In other terms, every tenth European citizen is directly concerned with the minority issue. Even due to the quantitative dimension of the phenomenon, this issue is one of the most important political questions in Europe. Apart from some mini-states, all European states are home to ethnic and national minorities.

### In Turkey...

Turkey, which is a founding member of the Council of Europe (CoE) in 1949, recognises only three religious communities: the Jews, the Armenians and the Christian-Orthodox. According to a 2008 report prepared for the National Council of Turkey by academics of the Turkish universities, out of its 70.59 million citizens, there were: 50-55 mn Turks, 12.5 mn Kurds, 2.5 mn Circassians, 2 mn Bosnjaks, 1.3 mn Albanians, 1 mn Georgians, 870,000 Arabs, 700,000 Roma, 600,000 Pomaks, 80,000 Laks, 60,000 Armenians, 20,000 Jews, 15,000 Greek-Orthodox and 13,000 Hemshins (total 21,658.000). Turkey has not signed either the FCNM

### States and national minorities in Europe: a general overview

<i>States</i>	<i>Year</i>	<i>Population</i>	<i>Titular nations/ethnic groups in %</i>	<i>Number of minorities</i>	<i>Minority members</i>
1. Albania	2001	3.069.275	97,2	5	86.000
2. Andorra	2005	81.222		0	0
3. Austria	2001	8.033.000	89,0	6	172.000
4. Belarus	1999	10.045.000	83,0	7	1.769.000
5. Belgium	2001	10.263.414	91,3	1	22.000
6. Bosnia-Herzegov.	2001	3.364.000	90,4	3	259.000
7. Bulgaria	2001	7.928.000	78,8	12	1.620.000
8. Croatia	2001	4.437.360	89,6	14	329.000
9. Czech Republic	2001	10.292.933	93,8	8	323.000
10. Cyprus	2001	1.023.044	74,9	1	256.644
11. Denmark	2000	5.330.000	95,1	4	123.000
12. Estonia	2000	1.370.052	65,1	12	497.000
13. Finland	2000	5.181.000	92,1	6	332.000
14. France	1999	58.519.000	86,1	8	5.026.000
15. Germany	2004	82.500.800	91,0	4	172.000
16. Greece	2001	10.260.000	97,4	7	229.000
17. Hungary	2001	10.174.000	89,2	13	1.096.000
18. Iceland	2008	313.376	96,5	0	0
19. Ireland	2002	3.917.203	99,4	1	74.000
20. Italy	2001	56.306.000	93,3	12	2.794.000

21. Kosovo	2000	2.000.000	88,0	7	260.000
22. Latvia	2000	2.456.254	58,3	11	955.000
23. Liechtenstein	2006	35.168		0	0
24. Lithuania	2001	3.483.972	82,1	10	653.000
25. Luxembourg	2001	439.764	99,4	1	2.500
26. Macedonia	2002	2.022.547	66,5	5	602.000
27. Malta	2004	401.000	96,0	0	0
28. Moldova	2004	3.388.071	64,5	9	1.513.000
29. Monaco	2006	32.000		0	0
30. Montenegro	2003	672.000	40,6	5	399.000
31. The Netherlands	2001	15.987.075	92,6	3	520.000
32. Norway	2001	4.521.000	91,3	4	86.000
33. Poland	2002	38.644. 000	96,7	14	1.657.000
34. Portugal	2001	10.356.000	97,5	3	147.000
35. Romania	2002	21.680.000	88,3	19	2.513.000
36. Russia (only European part) 2002		106.037.100	77,8	45	23.566.947
37. San Marino	2007	30.726		0	0
38. Serbia-	2003	7.498.000	78,5	12	888.651
39. Slovakia	2001	5.380.000	85,8	10	703.000
40. Slovenia	2002	1.964.000	88,7	4	15.000
41. Spain	2001	40.847.371	75,9	6	8.936.000
42. Sweden	2000	8.883.000	86,5	4	606.000
43. Switzerland	2000	7.288.000	80,8	2	43.095
44. Turkey (only European part) 2007		7.000.000	86,3	3	1.000.000
45. Ukraine	2001	48.457.000	72,7	23	13.923.000
46. United Kingdom	2001	58.789.194	98,6	6	837.000
<b>Total</b>		<b>690.037.700</b>		<b>330</b>	<b>75.004.837</b>

#### Some remarks...

- There is no European country with more than half-a-million inhabitants that does not have any national minorities. Even Portugal and Ireland, which some hold to be “minority-less”, include minorities.
- Europe’s countries are hosting between three and 45 minority groups each. Most of the ethnic minorities are living in the European part of Russia (45 groups), followed by the Ukraine (23 groups) and Romania (19 groups).
- The respective share of national minorities in the total population of the single European states varies between a few per cent (Greece, Slovenia, Albania) and more than 30 per cent as in the case of Latvia, Moldova, Macedonia, Estonia and Montenegro.
- There are Roma groups in 28 states and German speaking groups (not as titular nations) in 22 states. Russians, after the collapse of the USSR, are a minority in nine European and seven Asian states. Ukraine alone is home to 11 million Russians.
- The number of peoples in Europe is surprisingly high: 91. Some of these peoples or ethnic groups count less than 10.000 members as the Tsachurians, the Karaime, the Kernians and the Livs, the smallest group living in the Baltic States.
- Whereas 37 languages are used in at least one state as official state language, 53 languages are not used in any state as official language. Such languages are spoken by just 5 per cent of the Europeans. Generally, these are also the most threatened languages.

### Endangered minorities

Major difficulties relating to survival face the minor, small ethnic groups due to various reasons. But when can an ethnic or national minority be considered a “small” one? According to some research the critical limit lies at about 300,000 speakers of a language. Below that limit a language is in the long term seriously threatened. About 80 per cent of Europe’s 330 national minorities count less than 300,000 members. Thus the majority of those groups strongly rely on minority protection systems if they are to survive.

There are still various states in Europe which strenuously oppose any real implementation of modern minority protection provisions. Their state doctrines do not even allow the recognition of national minorities (e.g., France, Greece and Turkey). At least 28 national minorities (including all Turkey’s minorities) are living under this kind of backward regime regarding minority protection, although their number is shrinking.

A further problem is posed by several states which consider the basic rules and acts of non-discrimination of individuals as sufficient and reject any serious measure of positive enhancement of minority members.

Serious conflicts over national minorities also occur between neighbouring states (e.g. Greece, Macedonia and Albania).

Multinational states are also not necessarily free of ethnic tensions, as Belgium is witnessing.

### Europe’s mosaic: percentage of minority-population and political stability

<i>Minority percentage of the population</i>	<i>Ethnically stable areas</i>	<i>Ethnic tensions</i>	<i>Ethnic conflicts with neighbouring countries</i>	<i>Violent ethnic conflicts</i>
<b>Less than 10%</b>	Austria, Czech Rep., Denmark, Finland, Germany, Ireland, Italy, Netherlands, Norway, Poland, Portugal, Slovenia, Sweden	UK (Northern Ireland)	Albania (with Greece) Greece (with Macedonia and Albania)	
<b>&gt;10-20%</b>	Lithuania, Hungary, Croatia	France (Corsica), Romania and Slovakia (Hungarians)	Bulgaria (Turkey) Turkey (Bulgaria and Cyprus) Russia (Estonia and Latvia) Kosovo (with Serbia) Serbia (with Kosovo)	Russia (Chechnya), Turkey (Kurds)
<b>&gt;20-30%</b>	Belarus, Ukraine	Spain (Basque Country)	Cyprus (Turkey)	

>30-40%		Moldova (Transdnistria)	Estonia (Russia)	
>40-50%	Montenegro		Latvia (Russia)	
<b>Multinational states</b>	Switzerland	Bosnia- Herzegovina (between entities) Belgium (between communities)		

Is there a correlation between the quantitative share of national minorities on the total population of European states and the stability and internal peace of the respective state? At first glance one is tempted to reply in the affirmative since the major number of states, which are free of ethnic tensions, count less than 10 per cent of minority populations. The difficulties in inter-ethnic relations faced by Latvia, Estonia, Bulgaria and Cyprus seem to be linked to the numerical significance of the minority. Violent conflict is more predominant in countries with a larger minority percentage, for example Turkey, in which Kurds account for over 12.5 percent of the state's total population. However, generally it is not the figures that are decisive, but the fundamental approach of titular majority nations to their respective national minorities and the policies and protection measures subsequently applied.

**Useful links:**

EUROMINORITY, at <http://www.eurominority.eu/version/eng/>

EUROMOSAIC, at <http://www.uoc.edu/euromosaic/>

**References:**

Council of Europe, "Recent demographic developments in Europe" (Council of Europe Publishing 2003), at

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## II.3 Religious minorities and the Muslim presence in Europe

Generally, the European states are secular states, where constitutional or other legal provisions state that public affairs are separate from religious affairs. Under the European Convention on Human Rights (ECHR, Article 9) everybody has the freedom of thought, conscience and religion. This includes the freedom to manifest religion in worship, teaching, practice and observance, whereby the state may not discriminate among religious communities. The freedom of religion encompasses also the respect for religious convictions of the parents within the public school system (Article 2, prot.1) as well as the right to run private religious schools. If the state financially supports such schools, the principle of non-discrimination has to be respected, hence the state has to open up this opportunity to all religious groups.

### Is equal treatment of religious communities granted?

Depending on the more or less secular character of the single European state, equal rights for all communities are ensured strictly or less strictly. There are different approaches, depending on the historical evolution of the relationship between churches and the respective state. In the public and social life of many European states there is still a prominent role reserved for the Christian churches, which dominate the religious life of the majority of the population in many European countries, except some countries of the Balkans. In some states even the Constitution provides for a linkage to church institutions and assigns the Christian faith a high symbolic value (for instance, the Irish constitution is announced in the name of the “Holy Trinity” and affirms the “obligations to our Divine Lord, Jesus Christ”).

At this background smaller religious communities do not enjoy always the same role and privileges as the official religions of the respective state do. However, at individual level, discrimination based on religion is forbidden and can be brought before Courts.

### The Muslim presence in Europe

The Muslim presence in Europe has different roots in single parts of the continent. In the Balkans the Muslim population is an autochthonous part of the ethno-religious patchwork which came into being under the Ottoman Empire. In three Balkan states Islam is the prevailing religion (Albania, Bosnia, Kosovo), but also in Bulgaria, Serbia and Macedonia considerable historical minorities profess Islam. By far the numerically strongest Muslim minorities live in Russia (around 14.5 million), again most of them as autochthonous peoples as the Tatars, Bashkirs, Chechens etc. In Spain Islam for about seven centuries was flourishing in Andalusia and now, due to immigration, approx. one million Muslims are currently living the country. It should be stressed that in many cases the Islamic religion is intertwined with ethnic-cultural features. In Western Europe the Muslim communities are composed by - apart from some converted Western Europeans - people immigrated from all continents, speaking dozens of different tongues, with a differing cultural, economic and social background, who share the same religious belief. They do not build “national” or “ethnic minorities”, but rather religious communities.

### Are Muslims in Europe discriminated against as such?

Many Muslims appear to experience not only disadvantages and discrimination on the basis of their religion, but even acts of aggression borne out of Islamophobia, as the Fundamental Rights Agency of the EU reports.

### Muslims in Europe (conservative approximation)

Country	Total number (official data)	Total number (unofficial data)	Country	Total number (official data)	Total number (unofficial data)
Austria	388,988		Italy		723,188
Czech Republic	3,700		Lithuania	2,860	
Belgium		360,000	Luxembourg		8,898
Cyprus	4,182		Malta		~ 3,000
Denmark		150,000	The Netherlands	945,000	
Germany		3,400,000	Poland	5,123	
Greece		360,000	Portugal	12,014	
Estonia	1,387		Slovak Republic		~ 3,000
Finnland	2,833		Slovenia	47,488	
France		3,516,824	Spain		1,064,904
Hungary	5,777		Sweden		400,000
Ireland	17,979		United Kingdom	1,588,890	
<b>TOTAL</b>	<b>~ 13,000,000</b>				

Source: European Monitoring Center on Racism and Xenophobia, *Muslims in the European Union. Discrimination and Islamophobia* (2006)

#### Are Muslims a “religious minority” entitled to minority rights?

In many urban areas and regions of the EU Muslims constitute large groups that perceives themselves as communities. Muslims individually and collectively claim protection of their religious freedom and particular services in relation to education, health and traditional festivities.

But are the grievances of Muslim communities an issue covered by the ECHR and the fundamental rights enshrined in the respective national constitution or is there rather a need for additional “minority protection” under the state’s legislation? So far EU-member states do not recognise the existence of a “Muslim minority” on their territory, at best Muslims are afforded the same rights as other religious communities and churches. The UK, though it has adopted an inclusive definition of ethnic minority, does extend minority protection to “ethnic minorities”, but not to Muslims or other faith communities. The idea of granting the Muslim communities an official minority status, comparable with national linguistic minorities and aiming at the preservation of the identity of these minorities, is for Europe’s mainstream political doctrine, still unacceptable.

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European Monitoring Center on Racism and Xenophobia, *Muslims in the European Union. Discrimination and Islamophobia*, 2006, at [http://fra.europa.eu/fra/material/pub/muslim/Manifestations\\_EN.pdf](http://fra.europa.eu/fra/material/pub/muslim/Manifestations_EN.pdf)

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Guglielmo Rachel, "Human Rights in the Accession Process: Roma and Muslims in an enlarging EU", in Gabriel Toggenburg (ed.), *Minority Protection and the Enlarged European Union: the Way Forward* (Budapest 2004)

Halman, Loek/Luijkx, Ruud/Zundert, Marga van, *Atlas of European Values* (Tilburg 2005)

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## II.4 What is the understanding of minorities in South Asia?

Unlike the European region, there is no common understanding in identifying the minorities in South Asia both at regional and at state levels. Due to the absence of precise definition, none of the state in South Asia has officially recognized minority groups. Though, the widely accepted criteria for the identification of minorities are based on the ethnicity/caste, language, religion and culture, the South Asian countries have given importance on these criteria differently and interpreted the minorities in their own ways. For instance, Pakistan recognizes only religious minorities and not ethnic and linguistic minorities; Bangladesh does not constitutionally recognize any linguistic, ethnic and religious minority; Sri Lanka is an ethnically polarized country and does not recognize the socially depressed castes and indigenous groups; India gives more emphasis on religious criteria and does not count the *Dalit* population as a minority; Nepal focuses more on caste criteria rather than religious and linguistic minorities; and Bhutan does not care for diversity at all but rather seeks to establish the 'one nation one people' ideal.

### Ethnic and Caste-based Minorities

South Asia, which consists of eight nations (Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka), is the living model of ethnic diversity, with more than 2000 ethnic groups. The population of an ethnic group ranges from hundreds of millions to small tribal groups. From an ethno-linguistic point of view, the population of South Asia basically falls under two broad groups- Dravidian and Indo-Aryan. These groups further encompass hundred of sub-groups, castes and tribes. Broadly speaking, Indo-Aryans constitute the dominant ethno-linguistic group in India, Nepal, Pakistan, Sri Lanka and Maldives. Dravidian is the predominant group in some part of south India and north-east region of Sri Lanka. Over the period of time, the diffusion of Dravidian and Indo-Aryan culture with local tribal cultures gave birth to the countless ethnic and caste groups building nowadays' South-Asian mosaic.

### Caste system in Nepal: a typical example

Even though, Nepal is small in size (147181 sq.km) with the population of approx. 27 million, it is a living model of caste/ethnic, linguistic and cultural diversity. The population census 2001 has listed more than 103 caste and ethnic groups which are largely Hindus, Buddhists, Animists with some Muslims and even combinations of two or more of these. According to the 2001 census, 93 languages and dialects are spoken within the small nation. Out of the 93 languages, Indo-Aryan language constitutes 79.1% (48.6% Nepali, 12.3% Maithili, 7.5% Bhojpuri, and 5.9% Tharu), and Tibeto-Burman 18.4% (5.2% Tamang, 3.6% Newari, 3.4% Magar, 2.2% Rai-Kiranti, 1.5% Gurung, and 1.4% Limbu). The size of the language groups considerably varies. For instance, 58 local languages are spoken by less than 10,000 people and 28 languages only by 1,000 speakers.

In Nepal, no single caste or ethnic group forms a numerical majority. Chhetri is the largest caste group, which constitutes only 15.8% of the total population (3.5 million), followed by the hill Brahmins with 12.7%. The other major groups are Magar (7.1%), Tharu (6.7%), Tamang (5.6%), Newar (5.5%), Kami (3.9%), Yadav (3.9%), Rai (2.8%), Gurung (2.4%), and Limbu (1.6%). Other smaller groups have a population below 100,000, and 23 groups have less than 10,000 population. However, the so-called high caste groups (Brahmin and Chhetri), whose the aggregate population constitutes 28.5 percent of total population, are historically dominant groups in terms of excess to resources, power and politics, whereas other groups especially *Janajati* (ethnic group) and *Dalits* (12 percent) are relatively backward and are placed in minority.

## Caste-based discrimination

In South Asian countries caste-based discrimination is still very strong.

The Dalits are “‘Untouchable’, depressed castes in South Asia, whose identity had been imposed by dominant castes and was constituted as undesirable and debased” (No-Nonsense Guide, SAFHR 2006). In particular, the Mandal judgment of the Indian Supreme Court in 1992 affirmed that that “caste is a class in the sociological sense”.

In all the South Asian states there are fundamental rights’ charters or chapters in the constitutions or in the new draft constitutions. These catalogues of human rights refer to all citizens without discrimination in terms of race, religion, place of birth, color, sex or *caste*. Even though these rights can be claimed and, to some extent, are recognized by the Courts, violations, especially based on caste and sub-caste divisions do frequently occur. In India, the personal laws and the traditional ‘caste panchayat’ practices do violate human rights that Dalits should enjoy equally.

For example, Dalits’ Christians and Muslims (converted from Hindu religion) are denied the status of Scheduled Castes in India, which entitle to the protection and the provisions inserted in Part XVI of the Indian Constitution. Human rights’ activists have denounced that this ‘religious bar’ is discouraging the Dalits “from converting to other religions in search of emancipation from caste Hindu hegemony and from gaining self-respect based on their cultural identity” (No-Nonsense Guide, SAFHR 2006).

Even though caste-based discrimination has been legally abolished in many South Asian states, much has still to be implemented and the poor economic conditions of the majority of Dalits poses another obstacle to the enjoyment of the fundamental rights of this group.

The literal meaning of *Dalit* is a person who is suppressed. In the context of South Asia, Dalit is a common term used to address the culturally, economically and socially marginalized people or community. According to Hindu religion, the creator of the world, Brahma, created Brahmin from his mouth, *Kshetria* from his head, *Vaishya* from his thigh and *Shudra* from his feet. Therefore from the very beginning of the creation, the *Shudras* are shown to have originated from the disrespectful part of the body of the creator, so they had to serve all other classes of people through menial jobs. *Kshetrias* ruled the country, Brahmins were the priest and *Vaishyas* used to handle the economy of the country.

## Religious and linguistic minorities

Religious minorities are a crucial issue in South Asia. They differ from one state to another depending on religious faith of the majority population. For example, Hindu are the privileged dominant group in India and Nepal but constitute a religious minority in Pakistan and Bangladesh. Moreover, the minority may also depend on the ideology of particular state. For instance, Urdu language, which is seen as connected to the state religion i.e. Muslim. Therefore it is the privileged national language of Pakistan despite the fact that it is spoken as a mother tongue only by 8 percent of total population. The table below presents an overview of the relative distribution of the population by religion in various South Asian countries.

The presence of ethnic, religious and political conflict in this region has threatened the regional peace and security, and ultimately hinders the development of the whole area.

Political and economic imbalances coupled with social discrimination based on religion, language, caste and ethnicity are contributing to human rights violations, widespread poverty, hunger and illiteracy. The prolonged insurgency in Kashmir has affected the dynamics of Hindu-Muslim relationship, particularly in India and Pakistan and Bangladesh in general. The ethnic conflict in Sri Lanka has created the Sinhalese-Tamil tension and the state's intolerance of Bhutan has created thousands of refugees in Nepal. The inadequate constitutional protection at state level and the lack of institutional legal provision at regional level are contributing to the continuation of this situation.

### States and minorities in South Asia: a general overview

State	Ethnic groups	Language groups	Religious communities
<b>Bhutan</b>	Bhote 50%, ethnic Nepalese 35% (includes Lhotsampas - one of several Nepalese ethnic groups), indigenous or migrant tribes 15%	Dzongkha (official), Bhotes speak various Tibetan dialects, Nepalese speak various Nepalese dialects	Dzongkha (official), Bhotes speak various Tibetan dialects, Nepalese speak various Nepalese dialects
<b>Bangladesh</b>	Bengali 98%, other 2% (includes tribal groups, non-Bengali Muslims) (1998)	Bangla (also known as Bengali), English	Muslim 83%, Hindu 16%, other 1% (1998)
<b>India</b>	Indo-Aryan 72%, Dravidian 25%, Other 3% (2000)	Hindi 30%, Assamese, Bengali, Bodo, Dogri, Gujarati, Kannada, Kashmiri, Konkani, Maithili, Malayalam, Manipuri, Marathi, Nepali, Oriya, Punjabi, Sanscrit, Santhali, Sindhi, Tamil, Telugu, and Urdu; Hindustani ( <i>many in government and business also speak English</i> )	Hindu 80.5%, Muslim 13.4%, Christian 2.3%, Sikh 1.9%, other 1.8%, unspecified 0.1% (2001)
<b>Nepal</b>	Chhettri 15.5%, Brahman-Hill 12.5%, Magar 7%, Tharu 6.6%, Tamang 5.5%, Newar 5.4%, Muslim 4.2%, Kami 3.9%, Yadav 3.9%, other 32.7%, unspecified 2.8% (2001)	Nepali 47.8%, Maithali 12.1%, Bhojpuri 7.4%, Tharu (Dagaura/Rana) 5.8%, Tamang 5.1%, Newar 3.6%, Magar 3.3%, Awadhi 2.4%, other 10%, unspecified 2.5%	Hindu 80.6%, Buddhist 10.7%, Muslim 4.2%, Kirant 3.6%, other 0.9% (2001)

<b>Pakistan</b>	Punjabi 44.1%, Pashtun (Pathan) 15.4%, Sindhi 14.1%, Sariaki 10.5%, Urdu 7.6%, Balochi 3.6%, other 4.7% (1998)	Punjabi 48%, Sindhi 12%, Siraiki (a Punjabi variant) 10%, Pashtu 8%, Urdu (official) 8%, Balochi 3%, Hindko 2%, Brahui 1%, English (official; lingua franca of Pakistani elite and most government ministries), Burushaski and other 8%	Muslim 97% (Sunni 77%, Shi'a 20%), other (includes Christian and Hindu) 3%
<b>Sri Lanka</b>	Sinhalese 73.8%, Sri Lankan Moors 7.2%, Indian Tamil 4.6%, Sri Lankan Tamil 3.9%, other 0.5%, unspecified 10% (2001)	Sinhala (official and national language) 74%, Tamil (national language) 18%, other 8% ( <i>many in government and business also speak English</i> )	Buddhist 69.1%, Muslim 7.6%, Hindu 7.1%, Christian 6.2%, unspecified 10% + (2001)

Data based on Rita Manchanda (ed.), *The No-Nonsense Guide to Minority Rights in South-Asia* (SAFHR, 2006) and the census of the South Asian countries

#### Useful links:

Asian Human Rights Commission, at <http://www.ahrchk.net/index.php>

Bangladesh - Human Rights Congress for Bangladesh Minorities (HRCBM), at <http://www.hrcbm.org/>

Bangladesh Human Rights Commission, at <http://bhrc-bd.org/index.htm>

Human Rights Commission of Pakistan, at <http://www.hrcp-web.org/index.cfm>

Human Rights Commission of Sri Lanka, at <http://www.hrsl.lk/>

National Human Rights Commission of India, at <http://nhrc.nic.in/>

National Human Rights Commission Nepal, at <http://www.nhrcnepal.org/>

#### Data on South Asia:

Bangladesh Bureau of Statistics, at <http://www.bbs.gov.bd/>

Census of India, at <http://www.censusindia.gov.in/>

Government of Pakistan, Population Census Organization, at <http://www.statpak.gov.pk/depts/pco/statistics/statistics.html>

Nepal Central Bureau of Statistics, at <http://www.cbs.gov.np/>

Department of Census and Statistics of Sri Lanka, at <http://www.statistics.gov.lk/>

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## II.5 Indigenous peoples - should they be defined?

### Indios, aborigines or indigenous? And... what about First Nations?

As is well known, Colombo called the native people he first met “Indians” since he was convinced that he found the way to India by the sea. Nowadays, especially in US, the term “First Nations” is preferred to “Indians”, which has become a depreciative term over the years. This occurred also to the Spanish word “Indios”. Now the word commonly used is “indígena”, while the word “aborigen” is not accepted. In English and in Italian the words “aborigine” or “indigenous” have the same significance, but in French the word for “indigène” is depreciative, and the word “aborigène” is preferred.

It is estimated that approximately 350 million individuals living in more than 70 different countries worldwide fall under the umbrella term “Indigenous Peoples”.

As for “minorities”, there is no universally accepted definition of “indigenous people”. Some attempts to identify a common definition have been advanced under the premises of the United Nations, which has been dealing with Indigenous Peoples’ protection since the 1970s. Nevertheless, the difficulties in describing over 5.000 different groups, each speaking various languages and with different historical background, caused those involved in the creation of instruments for the protection of Indigenous Peoples to abandon a “definition”.

The “first” attempt of a definition was put forward in 1971 by Mr. José R. Martínez Cobo, the UN-Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples. His definition, handed in to the UN-Sub-commission on Prevention of Discrimination and Protection of Minorities between 1981 and 1984, and adopted in 1986, was criticized as being too simplistic and containing many flaws, especially regarding historical origins. Moreover his definition did not encompass the isolated tribal peoples living in Asia and Africa.

### *Cobo's definition*

*“Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form at present non dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems” (UN document C/CN.4/Sub.2/1986/7/ Add.4, para. 379)*

Nevertheless, two fundamental principles have been introduced by José Cobo: “self-identification”, and “self-recognition”.

These principles have been acknowledged in article 1 by the 1989 International Labour Organization (ILO) “Indigenous and Tribal Peoples' Convention” (Convention no. 169), while the UN 1994 Draft Declaration on the Rights of Indigenous Peoples (Preamble and articles 25, 27, 37 and 39) introduced peculiar (but not too restrictive) characters in order to identify indigenous peoples:

- Distinctiveness, in the sense of being different and wanting to be different;
- Dispossession of lands, territories and resources, though colonization or other comparable events, causing denial of human rights or other form of injustice;
- Lands (located in a specific area), as a central element in the history and identity;



- Being first, in the geographic area defined as 'lands';
- Lack of political control.

After the adoption of the new UN Declaration, the UN Permanent Forum on Indigenous Issues declared in its Fact sheet on 21 October 2007 that "the [UN] system has developed a modern understanding of this term based on the following:

- Self-identification as indigenous peoples at the individual level and accepted by the community as their member.
- Historical continuity with pre-colonial and/or pre-settler societies
- Strong link to territories and surrounding natural resources
- Distinct social, economic or political systems
- Distinct language, culture and beliefs
- Form non-dominant groups of society
- Resolve to maintain and reproduce their ancestral environments and systems as distinctive peoples and communities."

The recent Declaration on the Rights of Indigenous Peoples, adopted by the General Assembly of United Nations on 13th September 2007, does not include any definition. It follows the pattern of the 1994 Draft Declaration (mentioned above) in underlining that "historically, indigenous peoples have suffered from definitions imposed by others". This is now "deemed discriminatory as it denies the right of indigenous people to determine their own membership" (Ms. Erica Irene Daes, Rapporteur of the Working Group on Indigenous populations. (UN Document E/CN.4/Sub.2/AC.4/1995/3, page 4)).

At present, a "common understanding" has been adopted, preventing discrimination and/or exclusion in the application of the rights that protect Indigenous Peoples.

#### Indigenous Peoples in Europe

In Europe only few groups are commonly accepted to be defined "Indigenous". These are the Inuit in Greenland, the Sami in Scandinavia and Russia, and the Nenets, the Komi and other Samojedic peoples living in isolated areas in the North of the western Russia.

The question of a definition for Indigenous Peoples is extremely important. These vulnerable groups have suffered from centuries of discrimination and mistreatment. As many States have underlined, an inclusive definition would safeguard the application of rights to indigenous groups.

#### *How do some States define the indigenous peoples' groups living in their territories...?*

In Mexico indigenous peoples are those "that descends from peoples who inhabited the actual territory of the country at the beginning of the colonization".

In Guyana and Canada the definitions excludes who has "mixed blood" or women who get married to non-indigenous men.

In United States "Indians" are divided into three groups: recognized "indios", non-recognized "indios", and urban "indios", according to some characteristics such as living in the Reserves, belonging to a tribe, having a certain percentage of "Indian" blood.

In Chile the descendants and the surnames are recognized as relevant aspects.

In Bolivia, whose indigenous peoples represent more than 50% of the entire population, the 1994 definition embraces all the aspects of historical origins, language, customary aspects and attachment to land.

Nevertheless, the history of discrimination and the assimilation of such groups has showed worldwide that the belonging to the indigenous group does not result to be immediate to individuals concerned. Moreover, the (mainly forced) mixture between "colonizers" or "externals" and indigenous peoples gave birth to generations that show difficulties in defining themselves as belonging to one group rather than another.

Therefore, the non-adoption of a common definition but the acceptance of a modern understanding may play a fairer role in the application of Indigenous Peoples' rights.

#### Indigenous Peoples in South Asia

Out of the approx. 350 millions of Indigenous peoples, India alone has 88 millions: the Adivasi (forest dwellers) constitute 8% of the Indian population. The so called "Scheduled Tribes" are defined by the Constitution (Fifth and Sixth Schedule of the Indian Constitution). The latter prescribes the promotion of social justice and special protection against exploitation, but is in this respect only scarcely implemented.

In Nepal the movement of janjatis or indigenous nationalities is raising. The educational and cultural rights, and social and economic justice for "background groups" have been never translated into policies even though guaranteed by the Nepali Constitution.

In Bangladesh the existence of the indigenous tribal groups is denied by the State, even though they make up 1,13% of the total population.

Very few has been made for the small Sri Lankan indigenous groups of Veddhas ('hunters') and Wanniyala-Aetto ("forest-dwellers"), as well as for the Pakistani groups (including Kihals, Jhabils, Mors and Mohanas), that still wait for favourable provisions and policies by their respective States.

#### Useful links:

International Labour Organization (ILO), at <http://www.ilo.org/>

UN Permanent Forum on Indigenous Issues, at  
<http://www.un.org/esa/socdev/unpfii/index.html>

UN Sub-Commission on Prevention of Discrimination and Protection of Minorities, at  
<http://www.unhchr.ch/html/menu2/2/sc.htm>

UN 1994 Draft Declaration on the Rights of Indigenous Peoples, at  
[http://www.unhchr.ch/huridocda/huridoca.nsf/\(Symbol\)/E.CN.4.SUB.2.RES.1994.45.En](http://www.unhchr.ch/huridocda/huridoca.nsf/(Symbol)/E.CN.4.SUB.2.RES.1994.45.En)

UN 2007 Declaration on the Rights of Indigenous Peoples, at  
<http://www.un.org/esa/socdev/unpfii/en/declaration.html>

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Manchanda Rita (ed.), *The No-Nonsense Guide to Minority Rights in South Asia* (SAFHR, Kathmandu 2006)

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### III. Legal provisions on the protection of minorities

#### III.1 How are minorities protected at regional level in Europe?

Europe has long been the cradle for the ideology of the homogenous nation-state. This concept contrasts with the presence of hundreds of ethnic and national minorities, each claiming their fundamental rights, and in many cases, insisting on “internal self-determination” as a group.

It has finally been recognized that the minority question is a common problem to all European states. An increased awareness of the destabilizing effect of the minority question has led to general rules being set out in internationally agreed frameworks, building on work done over the last 15 years in different European political and legal frameworks.

#### The first framework: the Organization for Security and Cooperation in Europe (OSCE)

Only since the collapse of the Soviet bloc in 1990 the need for a new relationship between states and different ethnic groups living on its territory has gained more attention. This was fostered first by the CSCE (Conference on Security and Co-operation in Europe). The latter issued in 1990 the so called Copenhagen Document. Its catalogue of principles on the protection of ethnic, cultural, linguistic or religious minorities is of crucial significance since for the first time 30 European states reached consensus on a (however legally non binding) set of minority rights.

#### The whole process...

The CSCE process started already in 1975 with the Final Act of the Helsinki Conference and culminated with the Copenhagen Document of 1990. The internationalization of minority issues began with a common statement by the CSCE experts in Geneva in 1991: “Issues of national minorities and the fulfilment of international agreements on the rights of minorities are a legitimate international question and do not represent just an internal affair of a given state.” This new principle was confirmed by the Moscow Conference on Security and Co-operation regarding the human dimension in 1992. Since stability and peace cannot be established without a satisfactory settlement of minority questions, the French Prime Minister Balladur in 1993 initiated the Stability Pact for Europe which aimed to provide security and stability for central and eastern Europe.

#### The second framework: the Council of Europe

The Council of Europe (CoE), founded in 1949 as a comprehensive association of European states based on the strong belief in the importance of Human Rights, has created two international conventions aimed at accommodating the minority question. These are the European Charter for Regional and Minority Languages (ECRML), adopted in 1992, and the Framework Convention on the Protection of National Minorities (FCNM), adopted in 1994. Both instruments came into force in 1998 when a sufficient number of national parliaments had ratified the text (see in more detail under point III.3 and III.4).

### The third framework: the European Union

The European Council, the leading political body of the EU, adopted the 'Copenhagen criteria' in 1993, as fundamental premises for accession to the EU. As regards political criteria priority was put on full respect of institutional stability as a guarantee of democracy and rule of law, but also on full respect for human rights including "respect for and protection of minorities". Any applicant state should be in the position to start negotiations on accession to the EU only after having met these obligations. These criteria are among the most important issues in the accession negotiations with further candidates in South-eastern Europe (Western Balkans). Practice has shown that candidate states have to fulfill the Copenhagen criteria at the latest at the moment of accession.

#### The European Union

The European Union (EU) is a political and economic union of 27 member states, which was founded with the Treaty of Rome in 1957 as the European Economic Community (EEC). The EU was established in 1993 as a result of the signing of the Treaty on the European Union (otherwise known as the Maastricht Treaty), adding new areas of policy to the existing European Community. With almost 500 million citizens, the EU combined generates an estimated 30 per cent share of the world's nominal GDP in 2007.

### The fourth framework: the bilateral state relations

In Europe, neighboring states often share a particular feature: there are co-national minorities living beyond the border and vice versa. Also, if two states are not concerned by such minority situations in a reciprocal manner, they often share fundamental goals in accommodating the interests of a single co-national minority living in one of the partner states for the sake of a friendly relationship. It is in this way that minorities can form a bridge or a link between the states. Especially since the 1990s a significant number of such agreements have been signed.

#### Useful links:

The Council of Europe (CoE), at <http://www.coe.int>

The European Union (EU), at <http://europa.eu/>

The Organization for the Security and Co-operation in Europe (OSCE), at <http://www.osce.org/>

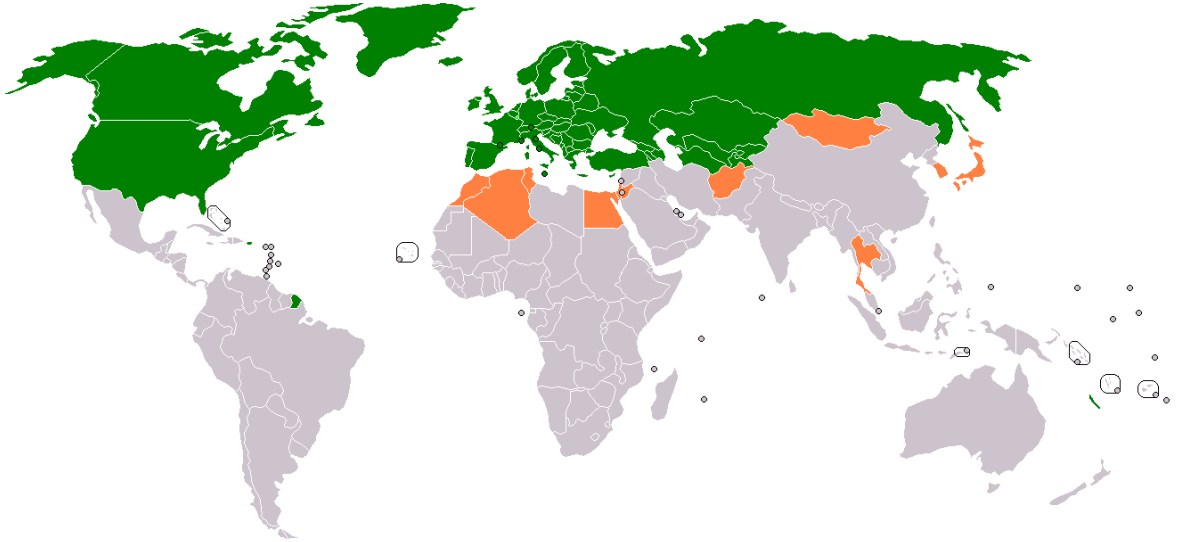
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Thornberry Patrick, Amor Martin Estebanez Maria, *Minority Rights in Europe - Work and Standards of the Council of Europe* (Strasbourg 2004)

## III.2 Minority protection under the OSCE



Source: OSCE, at <http://www.osce.org/>

The work of the OSCE on minority issues flows from the so-called “Human Dimension”, approved by the CSCE in Helsinki in 1975 and its different guarantee mechanisms. The most relevant documents adopted within the framework of the OSCE concerning national minorities in Europe appeared in the years following the fall of the Berlin Wall. The minority issue was one of the main subjects of discussion during the Copenhagen meeting on the Human Dimension in 1990, when an agreement was reached on a list of rights that should be granted to national minorities, although it was not possible to agree on any definition of minority. As a consequence of this, one of four chapters of the final document of this meeting is specifically devoted to the rights of persons belonging to national minorities, including the right to use the mother tongue, education in mother tongue, and non-discrimination. The political significance of the Copenhagen Document lies also in the fact that the OSCE member states accepted that the protection of national minorities forms a fundamental goal of the OSCE.

### What is the OSCE?

The OSCE was established in 1975 in Helsinki as ‘Conference on Security and Co-operation in Europe’ and at its Budapest summit in 1994, during the Balkan wars, was renamed OSCE. With 56 participating states the OSCE is the world biggest security organisation. Its primary task is early warning, conflict prevention, crisis management and post-conflict rehabilitation under Chapter VIII of the UN Charter. In a comprehensive approach it addresses a wide range of security-related issues including those related to national minorities and the linguistic rights of members of these groups. The OSCE has adopted a number of documents relevant for the rights of national minorities and established the office of the High Commissioner on National Minorities (HCNM) which is situated in The Hague.

## What does the OSCE do in the area of minority protection?

In the follow-up meeting in Helsinki in 1992, an OSCE High Commissioner for National Minorities (HCNM) was appointed with the main task of providing early warning and, if necessary, the activation of mediation procedures when tensions involving national minorities seem likely to develop in such a way as to threaten peace and stability in the continent. His work, starting in December 1992, later followed the lines drawn by the Copenhagen Document. The lack of an overall definition of minority within the European institutional framework has allowed to intervene in very different minority situations. According to his mandate, the High Commissioner is strictly excluded from dealing with groups that support terrorism. His mediating activities are periodically published by his office in The Hague and by the OSCE itself. Apart from these case-to-case activities the office of HCNM has also contributed to general standard setting in the area of minority protection. The HCNM published various general sets of recommendations in areas crucial for minorities such as for instance education (The Hague Recommendations 1993), language (Oslo Recommendations 1998), effective participation (Lund Recommendations 1999) or, most recently, the relationship between minorities and their kinstate (Bozen/Bolzano Recommendations 2008). In August 2007 Knut Vollebaek, a former foreign minister of Norway, became the third HCNM of the OSCE.

## What is the role of the HCNM in minority conflicts?

The work of the HCNM consists mainly of quiet diplomacy, informal dialogue behind closed doors, confidential exchange of information and consultation with independent experts. Moreover, there are periodic reports to the chairpersons and the Permanent Council of the OSCE. Whenever the HCNM engages in the detailed treatment of specific issues he sends formal letters to the governments concerned. This is the so-called formal written dialogue with the OSCE-member states. This exchange of letters underlines the practical, problem-solving and assistance-oriented approach of the HCNM. He raises specific issues and makes precise recommendations. Furthermore, the HCNM makes regular surveys of state practices and publishes reports on the linguistic rights of national minorities in the OSCE-area (currently from 51 states). The OSCE Missions provide support to other OSCE institutions, especially the HCNM, by means of monitoring, maintaining direct contacts or contributing analyses.

### Useful links:

OSCE High Commissioner on National Minorities (HCNM), at <http://www.osce.org/hcnm/>  
HCNM Thematic recommendations, at <http://www.osce.org/hcnm/documents.html?lsi=true&limit=10&grp=45>

### References:

Factsheet on the OSCE High Commissioner on National Minorities (7 August 2008), at [http://www.osce.org/hcnm/item\\_11\\_32905.html](http://www.osce.org/hcnm/item_11_32905.html)

Packer John, 'The Protection of Minority Language Rights through the Work of the OSCE Institutions', in S. Trifunovska (ed.), *Minority Rights in Europe* (Asser Press, The Hague 2000), pp. 255-274.

Stoel Max (van der), "Minority Rights, Participation and Bilateral Agreements", *Address of the High Commissioner on National Minorities of the OSCE to an international seminar on Legal Aspects of Minority Rights: Participation in Decision-Making Processes and Bilateral Agreements on Minority Rights* (Zagreb, 4 December 2000), 4, at [http://www.osce.org/hcnm/documents/speeches/2000/hcnm\\_speech2000\\_8.pdf](http://www.osce.org/hcnm/documents/speeches/2000/hcnm_speech2000_8.pdf)

### III.3 The European Charter for Regional or Minority Languages

#### What is the ECRML about?

This Charter (in short: ECRML) was adopted as a Convention by the Committee of Ministers in its meeting of 25 June 1992, with the abstention of Cyprus, France, Greece, Turkey and the United Kingdom. France, Greece and Turkey opposed on the grounds that the Charter had the nature of a convention, and proposed to consider it a (legally non-binding) “recommendation”. The Charter was opened for signature by the member states on 5 November 1992 and came into force on 1 March 1998 after having been ratified by the first five countries. It forms a part of the core of legally binding regulations of the CoE for the protection of national minorities in Europe. The main purpose of the ECRML is to protect and promote regional or minority languages as a threatened element of Europe’s cultural heritage. The ECRML tries to ensure the use of these languages in the private and public sphere, within education and the mass media and allows for their use in administrative, judicial, economic and social fields. The Charter does not establish individual or collective rights for the speakers of regional or minority languages, but it sets out the obligations of states for their legal systems and political undertakings.

#### Which languages are covered by the ECRML?

The object of the Charter, as defined in Article 1, covers languages that are “traditionally used within a given territory of a State by nationals of that State who form a group numerically smaller than the rest of the State’s population and different from the official language(s) of that State”. The ECRML does not seek to protect minorities or minority members as such, but the languages. It does not create any rights for minority language speakers, even if it refers in the preamble to the inalienable right to use a regional or minority language in private and public life. If a state decides to establish rights for the speakers of the minority languages, they will be rights just under national law.

In Part I the ECRML defines its terms of reference excluding from its contents the non-European languages which have recently appeared in the member states as a consequence of immigration, but it covers also “non-territorial languages”.

The ECRML refrains from giving a list of regional or minority languages in Europe which are object of the required domestic legislation. In this respect, each state, at the time of ratification, must declare which regional or minority languages are spoken within its jurisdiction and what dispositions of the ECRML will be applied to each of them, whilst being aware of the different socio-linguistic realities and the structure of the ECRML.

#### What protection is granted by the ECRML?

The protection is divided in two different levels: the first one, contained in Part II, refers to the general programmatic aims and principles to which the states are obliged. Within the second one, addressed in Part III, out of 100 possible measures the states are free to choose just 35 as minimum, but single sectors of policies are to be covered through a minimum number of measures (the so-called *à la carte-system*).

The ECRML’s approach combines a common core of state undertakings and a high degree of flexibility for each sector of public provision. The state policies, legislation and

practice in respect of the regional or minority languages should be guided by the following objectives and principles:

1. Recognition of the regional or minority languages as an expression of cultural wealth;
2. Respect for their geographical area when defining administrative divisions;
3. Facilitation and/or encouragement of the use of such languages, in speech and writing, in public and private life;
4. Appropriate measures for the teaching and study of regional or minority languages at all appropriate stages;
5. Promotion of transnational exchanges for regional or minority languages used in identical or similar form in two or more states.

Part III converts these general principles into concrete measures to be taken in specific fields: education, judiciary, administration and public services, the media, cultural activities and facilities, economic and social life and transborder exchanges.

### **How is the implementation of the ECRML by the single States ensured?**

To ensure that the implementation of each states undertaking is nevertheless effectively monitored, provision is made for a system of political control which comprises:

1. three-yearly reports by the state parties on the action they have taken in pursuance of the Charter's provisions;
2. examination of these reports, as well as of any information submitted by interested bodies or associations, by a Committee of Experts composed of persons of the highest integrity and recognised competence in the field;
3. submission by the Committee of Experts to the Committee of Ministers of its own report with appropriate proposals for recommendations which the Committee of Ministers might make to the state concerned;
4. the official reply of the state parties concerned;
5. recommendations of the Committee of Ministers to the state parties.

In addition, the Secretary General has to deliver every two years a detailed report on the application of the Charter to the Parliamentary Assembly. This monitoring mechanism, although relying on the relatively weak "reporting system", has so far offered a strong motivation for state parties to be more proactive in the implementation of an efficient minority rights protection system.

### **The effect of the ECRML**

As of March 2008, the ECRML will have been in force for 10 years. Twenty-three member states of the CoE have ratified the Charter so far; a further 10 have signed it. There are eight EU-member states (Belgium, Bulgaria, Estonia, Greece, Ireland, Latvia, Lithuania and Portugal) that have neither signed nor ratified the ECRML for various reasons.

The Parliamentary Assembly of the CoE from 1995 onwards required new member states to commit themselves to acceding to the Charter and urged members to ratify or sign it. The decisive responsibility lies with the national parliaments and governments to make all efforts first to accede and later to comply with the ECRML.

Generally, ratification has enhanced the dialogue between minority language speakers, their representatives and organisations and state authorities and democratic institutions. It has also improved the institutional representation of minority language speakers.



One more positive result of this first decade of application of the ECRML is the fact that the Charter has enhanced the dialogue between the speakers and state authorities and improved the institutional representation of minority language speakers at every level.

#### Examples of concrete effects in domestic legal systems

- the German Land of Schleswig Holstein adopted a law regarding the use of North Frisian in relations with administrative authorities;
- the adoption of the Sami Language Act in Finland;
- Acts on the use of Sami, Finnish and Meänkieli in courts and administration in Sweden;
- in 2001 Austria amended its Broadcasting Act and included the provision of regional or minority language programmes in the public service mandate of the ORF;
- the Croatian authorities stated that the long process of adoption of the 2000 Act on the Use of the Languages and Scripts of National Minorities was speeded up by the application of the Charter;
- following a recommendation of the Committee of Ministers in 2001 to “create conditions that will facilitate the use of North Sami before judicial authorities”, Norway set up the first bilingual court, where Sami is now used in 25 per cent of the cases.

#### Useful links:

Council of Europe's Secretariat of the Framework Convention for the Protection of National Minorities (FCNM), at

[http://www.coe.int/t/e/human\\_rights/minorities/](http://www.coe.int/t/e/human_rights/minorities/)

European Charter for Regional or Minority Languages, at

[www.conventions.coe.int/Treaty/EN/Treaties/Html/148.htm](http://www.conventions.coe.int/Treaty/EN/Treaties/Html/148.htm)

EUROLANG, at <http://www.eurolang.net/>

UNESCO Linguistic rights, Links and Resources, at

<http://www.unesco.org/most/ln2lin.htm>

#### References:

Parayre Sonia, “The 10<sup>th</sup> anniversary of the European Charter for Regional or Minority Languages”, in *Europäisches Journal für Minderheitenfragen*, Nr. 2/2008, Springer, Wien 2008

Kibbee Douglas (ed.), *Language legislation and linguistic rights* (Benjamins, 1998)

Keller P., “Rethinking Ethnic and Cultural Rights in Europe” in 18(1) *Oxford Journal of Legal Studies* (1998) pp. 29-59

### III.4 The Framework Convention on the Protection of National Minorities

The Framework Convention on the Protection of National Minorities (FCNM) was adopted on the 5 February 1995 by the Committee of Ministers of the Council of Europe and came into force on 1 February 1998, after having been ratified by 12 member states. The FCNM is the first multilateral and legally binding instrument devoted to the general protection of European minorities. Its aim is to protect the existence of national minorities within the respective territories of the state parties.

The Convention seeks to promote the full and effective equality of national minorities by obliging the states to create appropriate conditions enabling persons belonging to national minorities to preserve and develop their culture and to retain their identity. It sets out principles relating to persons belonging to national minorities in the sphere of public life, such as freedom of peaceful assembly, association, expression and thought, conscience and religion and access to media, as well as in the sphere of freedoms relating to language, education and cross-border co-operation.

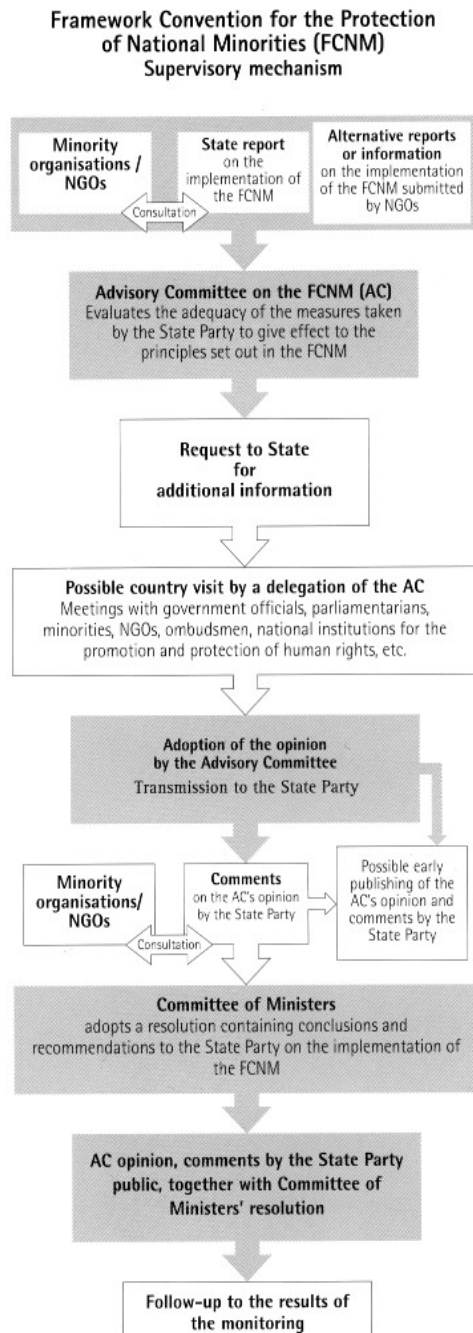
Of outstanding importance is **Article 10 which guarantees the right to use the minority language in private and public life.** Its second paragraph, concerning the right to use this language in communication with the public authorities, is heavily qualified. Not only is the right contingent on finding a high geographical concentration of members of the linguistic minority required, but it is also weakened by discretionary phrases like “where such a request corresponds to a real need”, and “as far as possible”. The effective application of this provision could thus be seriously questioned.

**Article 11, regarding the right to learn the minority language and being taught or receiving instruction in a minority language,** is equally cautiously formulated. The states appear not to have an obligation to take positive measures regarding the right to learn the minority language. In particular, the right to instruction in a minority language is, just like in other relevant international documents, foreseen only as an alternative to teaching that language as a subject.

#### What commitments exist for the States by ratifying the FCNM?

- The provisions of the FCNM cover a wide range of issues, including, *inter alia*:
- Non-discrimination and the promotion of full and effective equality (Art. 4)
- Promotion of conditions favouring the preservation and development of culture, religion, language and traditions (Art. 5)
- Prohibition of forced assimilation (Art. 5)
- Freedom of assembly, association, expression, thought, conscience and religion (Art. 7-8)
- Access to and use of media (Art. 9)
- Linguistic rights (Art. 10-11):
  - ✓ use of the minority language in private and in public as well as its use before administrative authorities
  - ✓ use of one’s own name in the minority language
  - ✓ display of information of a private nature in the minority language
  - ✓ topographical names in the minority language
- Educational rights (Art. 12-14)
- Participation in public life (Art. 15)
- Participation in economic, cultural and social life (Art. 16)
- Transborder contacts (Art. 17)
- International and transborder co-operation (Art. 18)

## How is State compliance with the Convention monitored?



Source: Council of Europe's Secretariat of the Framework Convention for the Protection of National Minorities (FCNM), at [http://www.coe.int/t/e/human\\_rights/minorities/](http://www.coe.int/t/e/human_rights/minorities/)

## How is the States' compliance with the FCNM monitored?

The control mechanism of the FCNM is based mainly on the state reports on the implementation of the Convention. The Committee of Ministers appoints an Advisory Committee (AC), composed by independent experts, which is the key actor in the supervisory mechanism of the FCNM. The AC not only controls the monitoring and analyses the State reports, but collects all useful information on relevant minority issues, furthermore it carries out country visits.

## What happens once the AC has completed its assessment?

Following examination of a state's report, the Advisory Committee adopts an opinion that is transmitted to the state concerned, which has an opportunity to comment on this opinion. It is open to states to make public the Advisory Committee's opinion at this stage, a possibility a number of states have taken up. In preparing their response, state parties may also choose to benefit from further consultations with minority and non-governmental organisations.

Next it is for the Committee of Ministers to adopt a resolution containing conclusions and recommendations of the state on the implementation of the Framework Convention. This resolution is made public together with the comments by the state party and the Advisory Committee opinion, if the latter has not been made public at an earlier stage. Governments, however, are invited to keep the Advisory Committee regularly informed in response to the monitoring process. A wide range of actors are encouraged to undertake ongoing follow-up activities in order to promote effective implementation.

## How has the FCNM been implemented

In 2008, the Framework Convention on the Protection of National Minorities came into force for 39 European and Transcaucasia states. Four governments (Belgium, Greece, Iceland and Luxembourg) have signed but not ratified the Convention. No signatures have been registered by Andorra, France, Turkey and Monaco.

At the end of 2007, all countries bar Georgia, Latvia, Montenegro and the Netherlands had concluded their first, and some even their second, monitoring cycle. Most of them reported about the new legislation put into force since the 1990s in the field of minority protection. This legislation very often is still to be improved and applied, but the first steps have been set and are fostering a growing dynamic towards recognition and protection of minorities. It is, at times, astonishing to observe real U-turns of state behaviour, from ignoring the very existence of a minority to friendly overtures and activity. A new political culture of appreciating ethnic minorities as being generally enriching is slowly spreading over the continent.

### Which are the weak point of the FCNM?

- Most provisions of the FCNM are not directly applicable, but require domestic legislative and executive provisions. There is a high degree of flexibility and high margin of interpretation of the principles of the FCNM, when it comes to translating them in national law.
- There is no definition of the term national minority.
- There is no reference to collective rights for the minority group as such. The FCNM follow the individualistic approach chosen by the UN with the 1992 declaration on the rights of persons belonging to minorities.
- The monitoring process being a non-judicial mechanism based on state reports is too weak, not providing for the necessary tool to limit the margin of appreciation left to the states in the implementation of the FCNM.

## The significance of the FCNM

Summing it up, the FCNM can be considered one of the major steps forward in creating legally binding international conventions for the protection of national minorities. However, it gives the state a wide margin within which to operate regarding the existence of national minorities and the rule of non-discrimination. Its adoption shows, in a way, the fear generated by the Yugoslavian conflict, in that neglecting to protect national minorities could provoke political instability, predominantly in the Eastern and Central part of Europe. The Convention in its form and content offers a minimum level of protection, but both its mechanisms for implementation and control are still not sufficient to ensure an efficient protection. After the approval of the FCNM, representatives of national minority organisations (for instance the FUEN) continued to press for the elaboration of an 'Additional Protocol to the European Convention of Human Rights' to include the rights of persons belonging to national minorities, particularly in the cultural field, but so far to no avail.

### Useful Links

Council of Europe's Secretariat of the Framework Convention for the Protection of National Minorities (FCNM), at [http://www.coe.int/t/e/human\\_rights/minorities/](http://www.coe.int/t/e/human_rights/minorities/)

Framework Convention on National Minorities, at [http://www.coe.int/t/e/human\\_rights/minorities/2\\_framework\\_convention\\_%28monitoring%29/1\\_texts/FCNM\\_Texts\\_en.asp](http://www.coe.int/t/e/human_rights/minorities/2_framework_convention_%28monitoring%29/1_texts/FCNM_Texts_en.asp)

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Weller Marc (ed.), *The Rights of Minorities in Europe: A Commentary on the European Framework Convention for the Protection of National Minorities* (Oxford University Press, USA 2006)

### III.5 Minority protection in the European Union

The process of European integration within the framework of the EU has been dominated by an economic rationale, enriched by a wide range of general political dimensions. However, the core interior affairs and cultural matters are still reserved for the member states. A harmonisation of government politics towards ethnic, linguistic or national minorities has never been an important issue in the EU-integration process, although the numerical and political importance of national minorities is steadily growing with the enlargement of the EU.

#### The EU and its ethnic minorities

<i>The EU and its last steps of enlargement</i>	<i>Inhabitants</i>	<i>Minorities (absolute numbers)</i>	<i>Members of minorities</i>	<i>Share of minorities in total population in %</i>
1. EU-15 (2003)	375,418,000	73	32,138,000	8.6
2. EU-25 (2004)	450,559,000	156	38,174,000	8.5
3. EU-27 (2007)	480,190,000	187	42,306,000	8.8
<b>Europe (47 states)</b>	<b>690,037,000</b>	<b>330</b>	<b>75,004,000</b>	<b>10.3</b>

*The current candidates for EU-membership are Croatia, Turkey and Macedonia. EUROSTAT estimates the total population of the EU-27 in 2008 at 497 million.*

#### General developments

The EU, as of 1 January 2007, consists of 27 countries with about 500 million of Europe's 750 million inhabitants. The enlargement process is still far from being concluded. After the accession of Romania and Bulgaria the next enlargement will probably embrace the Western Balkans and Turkey. Seven Balkan states with some 20 million inhabitants are aspiring for EU membership, while a long and stony path is expected to face Turkey on its way into the EU. Are minority rights and minority protection issues in the European integration process? While the UN, the OSCE and the Council of Europe have unfolded a broad range of activities on the issue of national and ethnic minorities, the EU seemed to be much less engaged. Historically, this is mainly due to the fact that the integration process has primarily been an economic project, increasingly embracing political aspects too, but leaving central constitutional and cultural matters to the member states. The need to transfer political powers to the Union in order to harmonise minority protection principles, laws and politics towards ethnic minorities has not- thus far- been an important issue; however the preservation of cultural diversity is now becoming increasingly important as a policy-priority of the EU.

The EU, unlike the CoE and the OSCE, is not an international, but a **supranational organisation**, which produces an impressive amount of law with which to trump national law and which is directly applicable in the national legal systems in a broad range of policy sectors. In fact it is estimated that nearly two-thirds of all legal provisions in the member states directly or indirectly stem from the Union. However, every single act of the EU needs to be founded on a particular article of the EU-Treaty, where all its powers are precisely enumerated. This limitation is though by far counterbalanced by the important fact that the EU can - unlike the OSCE - go far beyond mere political statements and very flexible covenants, since it has the power and means to put in force concrete and binding legal instruments. Since a direct EU commitment to national minority issues would have binding force in legal terms for each member state, the EU members still have been reluctant to include this matter amongst the EU competencies, considering it a classical core affair of the individual member states.

This led to the assumption of an article in the EU Charter of Fundamental Rights which states in Art. 22, "The Union shall respect cultural, religious and linguistic diversity." However the preservation of diversity in terms of EU law does not necessarily refer to the diversity within states (i.e., referring to minorities) but rather to the diversity between states. The Lisbon Treaty of December 2007 (which has not yet entered into force) however adopted the following formulation:

*"The Union is formed on values of respect for human dignity, freedom, democracy, equality, the rule of law and respect of human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail."*

#### ***The Fundamental Rights Agency (FRA)***

The EU's European Monitoring Centre on Racism and Xenophobia (EUMC) on 15 February 2007 became 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. According to the first Multiannual Framework of the newly established EU Fundamental Rights Agency based in Vienna, the protection of minorities will form part of the Agency's mandate in the years 2007-2012. The mandate just refers to "minorities", whereas the Parliament was pressing for a more specific reference to traditional national minorities as well as linguistic minorities. The fact that this proposal has not been taken up by the Council, however, does not restrict the mandate of the Agency.

#### **Which measures has the EU adopted for minority protection?**

The EU has generally appeared rather hesitant to develop a bold approach to minority issue, in a general perspective. Hence, the activities of the EU relating to minorities, also after the Treaty of Nizza (2000), remained rather scarce. They can be divided as follows:

1. Measures of mainly political character, mainly developed by the European Parliament, in promotion of cultural diversity and preservation of the cultural heritage;
2. Measures undertaken by the European Commission, the Council (and the Parliament), providing financial stimuli (for instance in the area of language learning);
3. Measures taken in the framework of the EU foreign policy, without touching the internal sphere of the EU;
4. Policies which do not strictly focus on the protection of (national) minorities but which are still relevant to the protection of minorities. These include areas such as human rights policies, anti-racism policy, refugee and asylum policy, employment policies, measures of social inclusion, regional policy etc.

Among all European institutions (Parliament, Council, Commission, various courts) the Parliament is the organ which has shown the most intensive interest in national minority issues. A range of resolutions dealing with ethnic and linguistic minorities have been approved by the Parliament. Moreover the European Parliament established already in the 80-ies an Intergroup (that is an unofficial group of Parliamentarians from different political parties dealing with a specific topic) in the area of minority protection.

The *European Bureau for Lesser Used Languages (EBLUL)* based in Dublin, acts as a lobby group on behalf of the now 40 millions of EU citizens who speak more than 40 minority languages. It also acts as a co-ordination centre for activities related to minority language. Partly through EBLUL, the EU has commissioned and financed a considerable number of studies, research and publications on minority issues. The EU in 1987 has also set up the MERCATOR network, tasked with meeting the growing interest in minority and regional language communities and regional languages in Europe and the need for these language communities to work together and to exchange experiences. The network gathers, stores, analyses and distributes relevant information and documents.

### Some way ahead...

In conclusion, we must recall that neither in the EU law system, nor in its external relations, are there fully binding provisions on the issue of minority protection - with the most important exception of anti-discrimination law, where the EU has taken a leading role in order to fight discrimination based on criteria such as ethnic origin or race. Hence most of the minority involvement of the EU consists of political declarations and accession criteria. Despite the latter there is no formal reciprocity, which would compel all EU-member states to implement those criteria in their internal legal order. Hence, minority protection is not legally defined on a EU level and equally provided by all member states. As a consequence minority protection is not yet a part of the so-called "*acquis communautaire*", even if developments are currently moving in this direction. It will primarily depend on the political opportunities and priorities focused inside the EU-27, if minority issues are to be reinforced. In political terms it seems quite impossible that the future EU will step back on this issue being it a significant part of all accession negotiations.



**Useful links:**

European Research Centre on Multilingualism and language learning, at <http://www.mercator-education.org>

EUROSTAT, at <http://epp.eurostat.ec.europa.eu/>

Minority protection and the European Union (Project funded by the EC of the Institute for Minority Rights, EURAC), at <http://www.eurac.edu/pecede>

The European Union Agency for Fundamental Rights (FRA), at <http://fra.europa.eu/fra/index.php>

Promoting European Linguistic Diversity, at <http://www.eblul.org/>

**References:**

Biscoe Adam, "The European Union and Minority Nations", in Peter Cumper and Steven Wheatley (eds.), *Minority Rights in the "New" Europe* (Kluwer, The Hague 1999), pp. 89-103.

De Witte Bruno, "Politics Versus Law in the EU's Approach to Ethnic Minorities", in Jan Zielonka, *Europe unbound*, Routledge, New York 2002, pp. 137-159

Shuibhne, Niamh Nic, "The European Union and Minority Language Rights", in *MOST Journal on Multicultural Societies*, Vol. 3, No. 2, 2001

Toggenburg Gabriel N. (ed.), *Minority protection and the enlarged European Union: The way forward* (LGI Books, Budapest 2004)

Toggenburg Gabriel N., "The Debate on European values and the case of cultural diversity", in *European Diversity and Autonomy Papers - EDAP 2004/1*, <http://www.eurac.edu/edap>

Toggenburg Gabriel N., "The protection of Minorities at the EU-level: a Tightrope Walk between (ethnic) Diversity and (territorial) Subsidiarity", in Lantschner, Marko and Petricusic (eds.), *European Integration and its Effects on Minority Protection in South Eastern Europe* (Nomos, Baden-Baden 2008)

Toggenburg Gabriel N., "The role of the new EU Fundamental Rights Agency: Debating the 'sex of angels' or improving Europe's human rights performance?", in *European Law Review*, June 2008, pp. 385-398

### III.6 How do national laws and governments protect and promote minority rights in Europe?

The recognition and protection of ethnic groups, linguistic communities, minority languages and national minorities is in Europe - notwithstanding the discussed commitments agreed upon on European level - an issue left to the state level of politics. Based mostly on constitutional provisions the national parliaments of the single European states approve acts either for comprehensive regulations regarding the rights of all national minorities of that state, or for the regulation of rights of a specific national minority. Such national State acts, in turn, may enable the central governments to take action for promoting and protecting minorities, or may delegate the issue to a lower governmental level (regional, provincial, municipal), depending on the state's constitutional structure.

Most of the European states have launched some interventions to recognise and promote national minorities (or "regional languages", "local traditions" or "lesser used languages") many years before the first international covenants were discussed and came into force at the beginning of the nineties. Territorial autonomy has been accorded to some specific regions in not less than 11 European states mostly by national laws or constitutional provisions, and in two cases even based on an international entrenchment (South Tyrol and the Aland Islands).

In Italy, for instance, apart from the presence of five regions with special autonomies due to the presence of national minorities, the central state has enacted a general provision to meet its obligations under Art.6 of the Constitution where the protection of linguistic minorities is enshrined (State Act on Linguistic Minorities No. 482/1999). But the implementation of such a provision, as in many other European states, is delegated to lower government levels, in the Italian case to the so-called "Regions with an ordinary statute". The political representation of national minorities in parliaments and governments and the international implications of the presence of national minorities are, however, features typically retained in the powers of the centre.

**Language policies** have been a priority of the national political agenda especially in states with major ethnic communities or smaller peoples, such as Switzerland, Belgium, Spain, the United Kingdom, and before 1989, Yugoslavia. It was only in the 1990s that the need to achieve a certain harmonisation and entrenchment of national minority rights on a continental level emerged in the form of international conventions, ensuring a common minimum degree of protection at European level.

Considering the variety of situations of the most different national minorities in the single sovereign states, it becomes sufficiently clear that in Europe there is a considerable diversity of solutions in terms of minority rights. Both the kind of solution applied and the quality of the measures taken offer a picture which is far from a homogeneous implementation of international standards.

There is the radical application of the territoriality principle in language rights as applied in Belgium and Switzerland; there are forms of advanced personal or cultural autonomy in Estonia and in Hungary; there are different forms of regional or territorial autonomy in 11 states; there are strict regimes of co-officiality of smaller languages as in Spain, Finland, Denmark; on the opposite there are states such as Greece and Turkey which even deny the very existence of any ethno-national minority.

This variety of solutions demonstrates not only the impressive diversity of minority situations the concerned states are called to tackle, but also the considerable differences between the single national approaches to such situations. States like Finland, Denmark and Hungary with a very advanced standard of minority protection serve as a yardstick for states such as Greece, France and Turkey which are lagging far behind. Although the FCNM ratification process has triggered a new dynamics in developing and enacting

provisions for minority protection by national parliaments and governments, the heterogeneity in minority issues among European states still is remarkable.

This though conforms to the fact that within the given constitutional legal framework and the given political organisation of Europe the prevailing normative framework for minority issues is the domestic one. In Europe today the single nation states are still the key players when it comes to defining the legal guidelines and the practical implementation of measures to protect national minorities. It should be kept in mind that, unlike subunits of federal states such as India, Russia and Canada, the member states of the Council of Europe (and the EU) remain the “masters of the treaties”. They retain the power of regulating their minority situations by means of domestic law.

#### Useful links:

Minority Electronic Resources, at <http://www.minelres.lv/>

MERCATOR Linguistic Rights and Legislation, at <http://www.ciemer.org/mercator>

Minority Rights Information System, at <http://www.eurac.edu/miris>

Council of Europe's Secretariat of the Framework Convention for the Protection of National Minorities (FCNM), at [http://www.coe.int/T/E/human\\_rights/minorities](http://www.coe.int/T/E/human_rights/minorities)

#### References:

Ram Melanie H., “Democratization through European Integration: The case of minority rights in the Czech Republic and Romania”, in *Studies in Comparative International Development*, Vol. 38 No. 2 (2003), pp. 28-56

Trifunovska Snezana, De Varennes Fernand (eds.), *Minority rights in Europe* (Asser Press, 2001)

### III.7 Minority protection under SAARC

Bangladesh pioneered efforts for bringing South Asian nations together, leading to the adoption of SAARC Charter. Ridden with constant communal tensions, having political/territorial conflicts and harbouring mistrust, it was no easy task to form a regional association for friendship and cooperation. The 7 nations signed the Charter in 1985 at the Dhaka Summit of South Asian leaders. Afghanistan was added later in 2007 as 8<sup>th</sup> member. The formation of SAARC was a momentous occasion in the history of the region. The event generated tremendous euphoria and inspired many individuals who thought that the Association would become a catalyst for change, in establishing peace and ushering in an era of mutual trust and cooperation.

The SAARC Charter aims at achieving the goals of economic growth and social justice through good neighborly relations and mutual understanding among the high contracting parties. The principles underlying the functioning of SAARC are stated to be, sovereign equality, territorial integrity, national independence and non-interference in the internal affairs of other states. The Charter reaffirms the aspirations of the peoples to unite for joint action and enhance cooperation for promoting the welfare of the people and improving their quality of life. The Charter spells out the specific objectives of the Association, the prominent ones being: promoting the welfare of the people and improving their quality of life; accelerating economic growth, social progress and cultural development to provide all individuals the opportunity to live in dignity and realise their full potential; shaping collective self reliance, collaboration and mutual assistance in the economic, social, cultural, scientific fields and strengthening cooperation among themselves in international forum for making an effective impact on regional and international issues.

The document provides for a framework and mechanism to achieving the goals. Such framework includes periodic meetings of the heads of state/government at the summit level and the Council of Ministers consisting of foreign Ministers of member states. A Standing Committee comprising their foreign Secretaries is constituted together with various Technical Committees comprising representative of the member states for the implementation and monitoring the programmes in different areas of cooperation. The Standing Committee can also set up Action Committees for implementation of projects in individual states.

A significant step towards moving in the direction of human rights protection was the signing of SAARC Social Charter in 2004, which seeks to promote the welfare of the people and to accelerate economic growth, social progress and cultural development. In 2002 two other instruments have been also approved: SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia; and SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution. Regrettably though, the progress so far has been marginal. A major stumbling block is the inability of SAARC to fully involve the civil society in having people-to-people contact to achieve the stipulated objectives. SAARC

activities are centered on official circles with scant prospects for broader participation by the private sector or civil society. The mutual bickering/distrust amongst the members operate as an impediment for involving the professional bodies and civil society groups/organizations to freely interact and devise strategies for mutually beneficial cooperation. The few subsidiary bodies like SAARC-Law, South Asian Free Media Association and SAARC Chamber of Commerce & Industry, though somewhat active, have had only limited success.

SAARC efforts and activities have generally been restricted to the economic domain and political cooperation. It has helped members to isolate, for the time being, territorial disputes or political conflicts. They continue to talk and address issues of mutual interest. There has been some progress towards trade liberalization and exchange of delegations as well as people-to-people interaction, however there is lack of progress in the area of human/minorities rights protection. The SAARC leaders may therefore borrow a page from the European experiment of restoring and maintaining communal peace and stability through human rights protection, however it has to develop an indigenous framework for cooperation in the socio-economic and political development and also in the area of protection of human/minorities rights.

**Useful links:**

South Asian Association for Regional Cooperation (SAARC), at <http://www.saarc-sec.org/main.php>

SAARC Information Centre (SIC), at <http://www.saarc-sic.org/>

**References:**

Bhargara, Nongartz and Sobhan (eds.), *Shaping South Asia's Future: Role of Regional Co-operation* (New Dehli: Vikas Publishing House, 1995)

Khan Z.R. (eds.), *SAARC and the Superpowers* (Dhaka: Bangladesh University Press, 1991)

Maskay Bishwa Keshar, "Poverty Alleviation and SAARC Social Charter Perspective and Issues in Regional Cooperation" (Institute of Foreign Affairs, Nepal 2003) at <http://www.ifa.org.np/article/article9.php>

Rajshree Jetly, "Conflict management strategies in ASEAN: perspectives for SAARC", in *The Pacific Review*, Volume 16, Issue 1 March 2003 , pages 53-76

Rehman Javaid, "Institutions of International Law and the Development of Regional Forum for Peaceful Dialogue in South Asia", in *Asian Journal of Comparative Law*, Volume 1, Issue 1 2006 Article 16

Upreti B.C. (ed.), *SAARC: Dynamics of Regional Cooperation in South Asia* (New Delhi, 2000)

### III.8 How do national laws and governments protect and promote minority rights in South Asia?

The identification of minority groups and the protection and promotion of minority rights are current issues in South Asia, which are differently interpreted by different states. In South Asia's diversified societies many government models ranging from federalism with especial autonomies (India) to unitary state (Bhutan) have been experimented. Likewise, the political systems also vary from multiparty democracy (India, Nepal) to party less authoritarian (Bhutan) and military government (Pakistan) and from republic (India, Nepal) to absolute monarchy (Bhutan). There is a variety in constitutional minority rights provisions in the south Asian countries. For example, in India there is an elaborated framework of constitutional guarantees for minority rights, whereas in Pakistan religious minorities face discrimination.

#### Constitutional Provisions

South Asian countries have adopted different state principles and legal provisions in favor of basic freedoms, human and minority rights.

The constitution of Pakistan assures the fundamental freedom of equality and non discrimination, especially for religious minorities. The original constitution of Bangladesh 1972 consisted four basic principles, namely Nationalism, Democracy, Socialism and Secularism (however, the amendments replaced the secularism with 'Absolute trust and faith in the Almighty Alla'). In India the four pillars of the constitution describes the state as Sovereign, Socialist, Secular and Democratic. The constitution of Sri Lanka consists the basic principles Democracy, Sovereign, Unitary and Socialist. The interim constitution of Nepal has guaranteed fundamental freedoms such as equality and non discrimination, freedom of speech, right to promote and preserve language, script and culture of every community. The draft constitution of Bhutan includes the provision of equality, non discrimination and freedom of religion. Thus in the constitutions of south Asian countries the freedom of religion and the right to one's own language are constitutionally assured. However, there is wide gap

**Pakistan** is defined as homeland of Muslims by the state authority. Pakistan is an Islamic Republic and the state religion is Islam. The constitution itself recognizes the Quran as supreme law and source of state legislation.

*"the Injunction of Islam as laid down in the Holy Quran and Sunnah shall be the supreme law and source of guidance for legislation to be administered through laws enacted by the parliament and provincial Assembly, and for policy making by the Government"*  
- Article 2A Constitution of Pakistan

In Pakistan Christians, Hindu, Ahmidis, Sikhs and parisis who constitute 3.3 percent of the total population belong to religious minorities. Freedom of religion and the right to language are provided in the constitution and include the right to practice and propagate ones religion, the right to establish, maintain and manage religious institution and the preservation and promotion of linguistic groups.

between principles and real practice on the ground. This might indicate that in some cases such provisions are the outcome of international influence rather than proper state commitment.

### **Affirmative Actions**

Although there is no widely accepted definition of minority in this region, some state specific criteria have been developed in order to identify the minorities and affirmative actions have been undertaken in order to promote and protect minority rights. For example, the Dalit population in India is listed as Scheduled Caste using the government's official criteria which includes 'extreme social, education and economic backwardness arising out of the traditional practice of untouchability' (Manchanda, 2006). Affirmative actions such as reserved posts in educational institutions, government, and elected positions have some positive impact in uplifting the Dalit population. In Nepal, the local self government Act has guaranteed the backward, Dalit and women participation in local government. More recently the government of Nepal has announced to reserve 33 percent of the posts to women.

### **Useful links:**

Mahanirban Calcutta Research Group (MCRG), at <http://www.mcrg.ac.in/>

South Asian Forum for Human Rights (SAFHR), at <http://www.safhr.org/>

South Asia Human Rights Documentation Centre (SAHRDC), at <http://www.hrdc.net/sahrdc/about.htm>

### **References:**

Ahmed Feroz (ed.), *Ethnicity and Politics in Pakistan* (Oxford University Press, New York 1998)

Anand Javed, "India: Minority Rights in India: Constitution and the Reality", in Sumanta Banerjee (ed.), *Shrinking Space* (SAFHR/Manohar, Kathmandu 1999)

Bhattachan Krishna "Sociological Perspectives on Internal Conflicts in Nepal" in Raghavan (ed.) *Comprehensive Security in South Asia Ethnic Dimensions* (Delhi Policy Group, 2000)

Katel Narayan "Bhutan: Minority Rights in Bhutan" in Sumanta Banerjee ed. *Shrinking Space* (SAFHR/Manohar, Kathmandu 1999)

Mohsin Amena, "Ethnicity and Conflict: The Bangladesh Case", in Raghavan (ed.) *Comprehensive Security in South Asia Ethnic Dimensions* (Delhi Policy Group, 2000)

Manchanda Rita (ed.), *The No-Nonsense Guide to Minority Rights in South-Asia* (SAFHR, 2006)

Zia Shahla, "*Discrimination Against Religious Minorities: Constitutional Aspects*". A Research Study, International Women's Studies (ASR, Lahore 2005)

## IV. The role of media in promoting minorities and their rights

### IV.1 How can the media contribute to the promotion of minority rights?

The media's point of view:

Journalists are interested in subjects which are of obvious relevance to their audience. The information has to be controversial, sensational, original, important for society, meaningful for the public and simple. Journalists like to get as close as possible to the source of information but find it difficult to access experts on minority issues or representatives of minority groups.

The minorities' point of view:

From the minorities' side, the main drawback from communicating with the wider public is the lack of communication instruments, the lack of financial sources, social acceptance and specialized training. However, there are NGO's, experts and representative of minority organizations who have prepared guides and fact sheets or press releases for public use. Minorities are conscious of the importance of contacts to media and want to communicate their issues to a wider audience. There are however barriers due to a lack of own minority media and very little interest in their issues on the side of the big national media companies. There is also a mismatch between what minorities might wish to see covered and what journalists regard as newsworthy. Minorities blame journalists very often for their need to find "bad news" or for the discriminatory way that they use words and meanings instead of objective and differentiated information.

Many journalists' associations have adopted guidelines or ethical codes. There are many different codes but all of them focus on the fundamental aims of the journalistic mission: "The journalist shall be aware of the danger of discrimination being furthered by the media and shall do the utmost to avoid facilitating such discrimination based on, ..., race, sex, sexual orientation, language, religion, political and other opinions, and national or social origins (Art. 7 of The Code of Principles of the International Federation of Journalists)."

Minority groups are encouraged to make their voice heard and to speak with one voice by networking and media trainings. By enforcing new communication tools such as the Internet a wider audience can be reached and the costs can be reduced.



The following table tries to summarize the triangular relationship between minorities, media and public audience as regards the promotion of minority interests:

	Audience	Minorities	Media
<b>Preferences</b>	Prefer mass media (TV, radio, newspapers) as source for information's about minorities.	Communicate their issues very often in their own media (small audience) or only among their own community.	Prefer easily accessible and understandable information sources as well as a relevant news item.
<b>Expectations</b>	Expect media to present minority issues in a differentiated understandable way.	Expect the media to have the necessary background information and to focus more on knowledge dissemination.	Expect minorities to more close and frequent interaction, to develop media competences and improve availability.
<b>Issues</b>	Only few people are consuming specialized media. There is only low interest in minority issues.	Lack of financial and human resources and low rate of interaction and networking between minorities.	Lack of time and space for reporting on minority issues, not interested and only focused on "bad news".

#### Useful links:

International Federation of Journalists, at <http://www.ifj.org>

Maynard Institute for Journalism Education, at

[www.maynardije.org/programs/faultlines/](http://www.maynardije.org/programs/faultlines/)

Media Diversity Institute, at <http://www.media-diversity.org>

Media Wise - for better journalism, at [www.mediawise.org.uk](http://www.mediawise.org.uk)

Minority dailies Association, at [www.midas-press.org](http://www.midas-press.org)

#### References:

Ebner Toni, Rautz Günther, *Future co-operation of minority dailies* (Athesia, Bolzano/Bozen 2001)

Ebner Toni, Rautz Günther, *Minority Dailies Association MIDAS, European Association of Daily Newspapers in Minority and Regional Languages* (Athesia, Bolzano/Bozen 2005)

European Agency for Fundamental Rights (FRA) in cooperation with IDG and EBU, *A Diversity Toolkit for factual programmes in public service television*, (Vienna, 2007).

## IV.2 Media guide

“We have seen how vital cultural intelligence is. It is not a question of being clever. You need to be aware of different modes of communication and of different cultures and be able to combine the two”

Manager of a Media Training Project in Helsinki

Public media has a mission to serve the entire society and by doing so, foster cultural diversity and reflect the cultural, racial and linguistically diverse character of the population.

However, media programmes very often reinforce stereotypes and repeat misunderstandings relating to minority groups. Journalists can often deepen prejudices unconsciously, not knowing how to properly report on minority issues.

Journalists, in order to fulfill their mission properly, should keep in mind following issues:

### 1. Representation

*“One person does not represent the whole group”*

Very often the news focuses on negative issues and stereotypes relating to the migrants and minorities. Short information addressed to a wide audience can very often simplify the variety of the members of a group into one simple category and gives a common understanding of a group of people.

The journalist must be aware of the ways the society will retain the stereotypes and also be aware of their own personal assumptions about the issues they report on.

Reporting on issues related to the migrants and minorities shall be performed in a balanced way and be put in a broader context. The story shall be presented from different perspectives and by a variety of persons - also members of the group concerned.

### 2. Facts

*“Double-check the facts before you report on issues related to ethnicity”*

Journalists are not always aware that they themselves are influenced by their own prejudices and cultural assumptions. Therefore the opinions provided should be counterbalanced by facts and figures. The adequate background information should be also given and the terms related to migration and minorities used in a proper way.

Also when quoting statistics, one should avoid generalizing: in case of ‘immigrant’ - explain the term used, differentiate between legal and illegal immigrants, manual workers and professionals etc.

### 3. Mentioning ethnicity

*“Is the information about the ethnicity of the criminalist relevant?”*

The ethnicity or religious identity shall be mentioned only if strictly relevant to the story, and, if not, mentioning it would make the story less comprehensible; particularly when reporting on crimes and accidents.

To check whether mentioning the ethnicity is appropriate, one should replace the nationality/religion/race of the minority with the one of the majority and only then value the relevance of this information.

### 4. Presenting diversity

*“Keep in mind the variety of the opinions among the group”*

When reporting on issues related to minorities and migrants, the variety of the group should be borne in mind. The variety of opinions among the minority spokespeople should be presented.

Therefore not only the minority spokesperson but also other members of the community shall be interviewed.

On the other hand the representatives of those groups should be interviewed on issues not only related to immigration, minorities and terrorism, but also, for example, education, science and consumer issues. The interviewees should be chosen because of their relevance to the story and not only in order to attract the attention of the viewer.

### 5. Choosing the topic

*“Report on issues of particular importance for minority members”*

The media shall represent the reality of the diverse and multicultural society and create programmes representing certain issues from a wide range of viewpoints, addressing the minority audience specifically and the mainstream audience in general. This would make the minority groups feel “part of the whole”.

### 6. Power of words

*“Avoid using the terms of negative connotations”*

When reporting on issues related to the delicate topic of ethnicity, one should be aware of the impact of words and how they can sometimes insult, even if meant to be objective. Therefore the question whether or not to mention ethnicity should be considered very carefully. Moreover, the diversity issues are often combined with words relating to catastrophic weather. “Waves of immigration” and “floods of asylum seekers” will automatically create negative emotional undercurrents. One should avoid the negative “terms-combination” and develop objective and neutral glossary related to such terms as race, migration, nationality, assimilation etc.

## 7. Involve the minorities and get the background information

“Background information as basis of further work”

In order to get background information on issues relating to minorities in the respective regions, journalists could involve the minorities. The latter could be motivated to prepare guides on their communities and/or religion. Minority spokespeople can provide useful information (and get thereby themselves involved in the work of media).

As good examples of such practices a media guide on British Muslims by Ehsan Masood (<http://www.counterpoint-online.org/download/305/British-Muslims-Book-mailing.pdf>) or a BBC guide on religion (<http://www.bbc.co.uk/religion/religions/>) can serve.

Source: *A Diversity Toolkit for factual programmes in public service television, European Agency for Fundamental Rights (FRA)*

### Reporting Diversity - checklist for journalists

- ✓ Have I covered the story with sensitivity, accuracy, fairness, and balance to all of the people involved?
- ✓ What are the likely consequences of publishing or broadcasting this story? Who will be hurt and who will be helped?
- ✓ Have I sought a diversity of sources for this story?
- ✓ Am I seeking true diversity or using "tokenism" by allowing one minority person to represent a community or a point of view?
- ✓ Have I allowed preconceived ideas to limit my efforts to include diversity?
- ✓ Am I flexible about the possibility that the focus of the story may change when different sources are included?
- ✓ Am I being realistic? Are there some stories that can't be diversified? Is there a reasonable effort to balance the story and avoid exclusion?
- ✓ Have I developed a meaningful list of minority sources who can bring perspective and expertise into the mainstream of daily news coverage?
- ✓ Have I spent time in minority communities and with residents to find out what people are thinking and to learn more about lifestyles, perspectives, customs, etc.?
- ✓ If I am writing about achievements, am I writing about them on their own merits rather than as stereotype-breakers?
- ✓ Am I letting place names (the south side, the inner city, Watts, etc.) become code words for crime or other negative news?
- ✓ As I seek diversity, am I being true to my other goals as a journalist?
- ✓ Will I be able to clearly and honestly explain, not rationalize, my decision to anyone who challenges it?

Source: [http://www.media-diversity.org/articles\\_publications/Reporting%20Diversity%20A%20Checklist%202.htm](http://www.media-diversity.org/articles_publications/Reporting%20Diversity%20A%20Checklist%202.htm)

**Useful links:**

Maynard Institute for Journalism Education, at

<http://www.maynardije.org/programs/faultlines/>

Media Diversity Institute, at <http://www.media-diversity.org>

Media Wise - for better journalism, at [www.mediawise.org.uk](http://www.mediawise.org.uk)

**References:**

European Agency for Fundamental Rights (FRA) in cooperation with IDG and EBU, *A Diversity Toolkit for factual programmes in public service television*, (Vienna, 2007).