

Workshop Outline
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National Minorities between protection and empowerment: Contemporary minority politics in Europe

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Abstract

The status of national minorities in Europe challenges many of the primary local-to-global institutions. At the same time, no region in the world has progressed so far as to establish a minority rights regime that seeks to prevent discrimination and establish empowerment. Since the end of the Cold War, the focus on minorities in Europe has been primarily on conflict prevention and resolution. However, since the EUs enlargement in 2004 and 2007, the focus on minorities has become a subject of not only of Central and Eastern Europe, but Western European states as well.

In other words, national minorities are a European issue. The way that the EU, Council of Europe and OSCE have come to engage with minorities needs more analysis in terms of its effects on how national minorities are situated within national and regional contexts. The argument is that the focus on security and conflict has let this minority rights regime towards management and protection over empowerment.

This workshop aims to look comparatively at the impact of the minority rights regime throughout Europe, paying particular attention to European organisations, member-states and national minority communities. The comparative framework is based on the following questions: What is the relationship between European approaches to minorities and the impact on the ground? How have the ethnic conflicts of the early Cold War period shaped national and regional methods of ethnic management? And, finally, more normatively, how can European organisations and member states move beyond management and protection towards empowerment?

Outline of the topic:

'National minorities' are ethnic or linguistic groups that are a) self and externally perceived as being different culturally and b) have either a self or externally perceived historical connection to the territory of the state in which they live. Europe's history is the history of minorities whether they be ethnic, linguistic, religious or otherwise. The twentieth century alone witnessed large scale genocide, ethnic cleansing, population exchanges and enforced assimilation. At the same time, Europe also witnessed a birth in minority rights driven by these devastating events as well as a broader development of a global human rights regime. The legal and political foundations of a minority rights 'condition'. Europe's twentieth century approach to minority rights was confined by the Cold War in that contested boundaries and states lay prominently in Central and Eastern Europe and outside of a legal or political system founded on democratic, human rights. The rest of Europe had largely come to a solution regarding state or national minorities with protected status (Denmark, Germany, Finland, Italy), consociationalism (Belgium, Switzerland) or national assimilation (UK, France),

with many others left in between with unresolved minority problems (Spain). Overall, the minority rights approach in 'Western Europe' can be summarised as protection or assimilation, although the outcomes have been more varied in terms of degree and volatility. In contrast, minorities in Central and Eastern Europe were locked within a stasis, neither being able to challenge the authoritarian systems for greater rights or status nor being willing to fully assimilate into a dominant socio-political culture. When the so-called 'prison of nationalities' was opened at the end of the Cold War, the prospect for contest and conflict would be high, and so it was.

Following the end of the Cold War, Europe (its politicians, institutions, peoples,) were forced to confront the 'question' of minorities that has been largely dormant or even solved in 'Western Europe': what do we do with them? Tove Malloy (2005) argues that Europe approached national minorities in three ways. The first was the most urgent and was to stop the ethnic conflict in the former Yugoslavia and Soviet Union. Addressing minority concerns became a way to prevent conflict and to resolve it by engaging with the grievances of the minority, state and often kin-state. The second was in service to democracy and human rights. The assumption here was that minority protection was a fundamental part of basic democratic governance. Finally, national minorities were seen through the prism of European integration. If the EU were to expand, the minority question would need to be addressed satisfactorily to the EU and member-states (although not necessarily to acceding states or their minorities).

Within this process of stabilisation, democratisation and regional integration, the way that Europe dealt with national minorities is summarised by David J. Galbreath and Joanne McEvoy (2012a, 265) arguing that 'the European minority rights regime:

- a) is not asking how can we improve the role of minorities in Europe but instead is asking how can we reduce the chance of regional instability;
- b) is trying to 'satisfise' rather than maximise the role of minorities in European political communities; and
- c) is pushing protection over empowerment as a solution to the 'minorities' problem in Europe.'

And it is this last point that we wish to bring to the workshop, where we seek to problematise the relationship between minority protection and empowerment.

Relation to existing research:

The minority rights literature can be ordinarily grouped into three literatures: conditionality, political participation and European international law. The conditionality literature was concerned with two issues: a) institutional arrangements for minority rights and b) the effectiveness of such arrangements. For the most part, institutions like the EU, Council of Europe and the OSCE were examined to see how minority rights could be promoted. This institutional arrangement itself is a step change from the past where, as Jennifer Jackson-Preece (1997) illustrates, population transfers and mass expulsions were seen as the key to solving the 'minority question'. These institutions were seen as being a key part of promoting regional integration and regional stability (see Sperling and Kirchner 2007) while others saw the mechanisms

themselves as being worthy but ineffective (Hughes and Sasse 2003). More recently Galbreath and McEvoy (2012b) argue that effectiveness is constrained by not necessarily the nature of conditions to be met but more so the agreement amongst actors at the international level and the politics of mediation and cooperation at the domestic levels. Yet, this literature has refrained from making an assessment of the nature of minority rights protection itself at the European level. The workshop aims to close this gap in the European conditionality literature.

The political participation literature has focused most on the ways in which to promote minority participation following conflict. Scholars like Brenden O'Leary and John McGarry (2006), Joanne McEvoy (2011) and others have returned to Arend Lijphart's work on the role of consociationalism especially in relation to the former Yugoslavia (1984). This literature primarily focuses on the institutions of state-building following a conflict. The debates in this literature focus on the role of power-sharing institutions in shaping minority and majority stakeholders at the national and local level. The debate focuses specifically on the nature of power-sharing institutions and their ability to provide access to public goods while at the same time minding the politics of ethnicity at the local and national levels.

The European international law literature focuses on three aspects of minority protection: justification, interpretation, and application. The justification debate centres around the legitimacy of providing special protection (self-determination and collective rights) for minority groups that have experienced strong assimilation policies in the past (Akermark, 1997; Castellino, 2000; Crawford, 1988; Donnelly, 1989; Felice, 1996; Franck, 1999; Galenkamp, 1993; Musgrave, 1997; Thornberry, 1987, 1991). The interpretation of norms of minority protection centres on the concept of minority rights as a sub-regime of the human rights regime and how this may be operationalized in specific contexts (Ahmed, 2011; Baker, 1994; Fottrell and Bowring, 1999; Freeman, 2002; Hannum, 1996; Jackson Preece, 2005; Lerner, 1991; Suksi, 1998; Thornberry and Estebanez, 1994). Finally, the application debate focuses on the technical implementation of protection provisions and standards (Bloed and van Dijk, 1999; Lantschner, 2009; de Varenne, 1996; Henrard, 2000; Henrard, 2010; Packer and Myntti, 1993; Pentasuglia, 2002; Phillips and Rosas, 1995; Thornberry, 2004; Weller, 2005). Common for these three debates is that they focus on minorities as objects of law and state policies. In seeing members of minorities as objects, the authors neglect the empowerment of minorities which is, however, provisioned in European international law through Article 15 of the Framework Convention for the Protection of National Minorities (1995) and the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. Unlike the political literature on institutionalized self-government for minority groups (Keating, 1988, 1998), the European international law literature is unable to address the actions of minority groups that evidence empowerment. Seeing minorities as actors in society is required in order to determine the degree of empowerment achieved through minority rights.

Prospective Papers

The workshop organisers are looking for papers that work within and across these literatures that can critically engage with the relationship between minority protection and empowerment. Papers MUST address Europe AND ethno-linguistic/cultural minorities whether 'old' or 'new'. Vertically, we would like papers at three levels.

Papers can address the role of European institutions in promoting protection and empowerment. Papers could also address the role of national minorities in the political process at the national level, whether comparatively or a single case study. Finally, we encourage papers that look at the way in which minority groups themselves seek empowerment through the political process or alternatives to it.

Horizontally, we look for papers across the disciplines. Naturally, we expect papers from political science/political studies and International Relations. Secondly, we seek papers from cognate disciplines such as sociology, human geography, and history. Thirdly, workshop conveners welcome participants from the field of law. Finally, should interested scholars from other disciplines be able to engage with these subjects and disciplines through their own perspective, we welcome submissions. Together, the workshop seeks to address and contribute to the intellectual problems posed by the way society and scholarship has approached national minorities between protection and empowerment.

Biographical Note

Tove Malloy is Director of the European Centre for Minority Issues, Flensburg, Germany and lecturer at Flensburg University. She is a member of the Advisory Committee to the Framework Convention for the Protection of National Minorities and sits on several editorial boards of international journals. Her academic work focuses on the political and legal aspects of national and ethnic minority rights in international law and international relations, especially in the European context. Her current research interests include minority citizenship, agonistic democracy, ethno-ecologism, minority indicators, and inter-sectional discrimination. She is the author of *National Minority Rights in Europe* (OUP, 2005) and numerous articles and essays on minority issues.

David J. Galbreath is Reader in Politics and International Relations at the University of Bath, UK and Editor-in-Chief of *European Security*. While much of his work concentrates on European security and defence, a main theme of his research is on the international politics of national minorities in Central and Eastern Europe and the former Soviet Union. Most recently, he completed a Leverhulme Trust project, which produced research delivered in *The European Minority Rights Regime* (with Joanne McEvoy, Palgrave, 2012) and journal articles in *Ethnopolitics*, *Security Dialogue*, and *Democracy and Security*, the *Journal of European Integration*, and elsewhere. His current work involves the role of kin-states on the condition of co-ethnic minorities.

References

- Ahmed, Tawhida (2011), *The Impact of EU Law on Minority Rights* (Oxford: Hart Publishing)
- Baker, Judith (ed.) (1994), *Group Rights* (Toronto: University of Toronto Press)
- Bloed, A. & Pieter van Dijk (1999), *Protection of Minority Rights through Bilateral Treaties* (The Hague: Kluwer Law International)
- Castellino, Joshua (2000), *International Law and Self-Determination* (The Hague: Martinus Nijhoff Publishers)
- Crawford, James (ed.) (1988), *The Rights of Peoples* (Oxford: Clarendon Press)
- De Varennes, Fernand (1996), *Language, Minorities and Human Rights* (The Hague: Martinus Nijhoff Publishers)

- Donnelly, Jack (1989), *Universal Human Rights in Theory and Practice* (Ithaca: Cornell University Press)
- Felice, William (1996), *Taking Suffering Seriously: the Importance of Collective Human Rights* (Albany, NY: State University of New York Press)
- Franck, Thomas M. (1999), *The Empowered Self. Law and Society in the Age of Individualism* (Oxford: Oxford University Press)
- Fottrell and Bowring, 1999; Fottrell, Deidre & Bowring, Bill (eds.), *Minority and Group Rights in the New Millennium* (The Hague: Martinus Nijhoff Publishers, 1999)
- Freeman, Michael (2002), *Human Rights. An interdisciplinary approach* (Cambridge: Polity)
- Galbreath, David J., and Joanne McEvoy. 2012a. 'European Organizations and Minority Rights in Europe: on Transforming the Securitization Dynamic'. *Security Dialogue* 43(3): 265–282.
- . 2012b. 'How Epistemic Communities Drive International Regimes: The Case of Minority Rights in Europe'. *Journal of European Integration*.
- Galenkamp, Marlies (1991), 'Collective Rights: Much ado about nothing? A Review Essay', *Netherlands Quarterly of Human Rights*, 3 (1991) 291-307
- Hannum, Hurst (1996), *Autonomy, Sovereignty, and Self-Determination*, 2nd edition (Philadelphia: University of Pennsylvania Press)
- Hughes, James, and Gwedolyn Sasse. 2003. 'Monitoring the Monitors: EU Enlargement Conditionality and Minority Protection in the CEECs'. *Journal of Ethnopolitics and Minority Issues in Europe* 1: 1–37.
- Jackson Preece, Jennifer. 1997. 'National Minority Rights vs. State Sovereignty in Europe: Changing Norms in International Relations?' *Nations and Nationalism* 3(3): 345–364.
- Jackson-Preece, Jennifer (2005), *Minority rights: between diversity and community* (Polity Press).
- Keating, Michael (1988), *State and Regional Nationalism. Territorial Politics and the European State* (New York: Harvester Wheatsheaf)
- Keating, Michael (1998), *The New Regionalism in Western Europe. Territorial Restructuring and Political Change* (Cheltenham: Edward Elgar)
- Lerner, Natan (1991), *Group Rights and Discrimination in International Law* (Dordrecht: Martinus Nijhoff Publishers)
- Lijphart, Arend. (1984). *Democracies: Patterns of Majoritarian and Consensus Government in Twenty-one Countries*. Westford, Mass: Yale University Press.
- Malloy, Tove H. (2005). *National Minority Rights in Europe*. Oxford: Oxford University Press.
- McEvoy, Joanne. (2011). 'Managing culture in post-conflict societies'. *Contemporary Social Science* 6(1): 55–71.
- McGarry, John, and Brendan O'Leary. (2006). 'Consociational Theory, Northern Ireland's Conflict, and its Agreement. Part 1: What Consociationalists Can Learn from Northern Ireland'. *Government and Opposition* 41(1): 43–63.
- Musgrave, Thomas D. (1997), *Self-Determination and National Minorities* (Oxford: Clarendon Press)
- Suksi, Markku (1998), *Autonomy: Applications and Implications* (Martinus Nijhoff Publishers)
- Thornberry, Patrick (1991), *International Law and the Rights of Minorities* (Oxford: Clarendon Press)

- Thornberry, Patrick and Martin Estebanez, Maria Amor (2004), *Minority Rights in Europe* (Strasbourg: Council of Europe)
- Lantschner, Emma (2009), *Soft jurisprudence im Minderheitenrecht (Nomos)*
- Henrard, Kristin (2000), *Devising an Adequate System of Minority Protection* (The Hague: Martinus Nijhoff Publishers)
- Henrard, Kristin (ed.) (2010), *Double Standards pertaining to Minority Protection: a critical and multi-dimensional re-appraisal* (Brill)
- Packer, John and Myntti, Kristian (eds.) (1993), *The Protection of Ethnic and Linguistic Minorities in Europe* (Åbo: Institute for Human Rights, Åbo Akademi University)
- Pentassuglia, Gaetano (2002), *Minorities in International Law* (Strasbourg: ECMI and Council of Europe)
- Phillips, Alan and Rosas, Allan (eds.) (1995), *Universal Minority Rights* (Åbo: Institute for Human Rights)
- Sperling, James, and Emil Kirchner. (2007). 'The security architectures and institutional futures of post-1989 Europe'. *Journal of European Public Policy* 4: 155 – 170.
- Weller, Marc (ed.) (2005), *The rights of minorities in Europe: a commentary on the European Framework convention for the protection of national minorities* (Oxford University Press)
- Åkermærk, Athanasia Spiliopoulou (1997), *Justification of Minority Protection in International Law* (Kluwer International Law)