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Book Review:

Südtirols Minderheitenschutzsystem: Grundlagen, Entwicklungen und aktuelle Herausforderungen aus völker- und verfassungsrechtlicher Sicht

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Südtirols Minderheitenschutzsystem: Grundlagen,
Entwicklungen und aktuelle Herausforderungen aus völker-
und verfassungsrechtlicher Sicht

Matthias Haller (Duncker&Humboldt, 2021), 631 p.

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The monograph is structured around four chapters and is a valuable resource for understanding the foundations and legal dynamics of minority protection system in South Tyrol from the conclusion of the Paris Treaty in 1946 until today. Culled from the analysis of the Paris Peace Treaty, diplomatic notes, constitutional court orders, laws, statutes and ordinances, the book demonstrates evolution of the minority protection regime in Northern Italy in a systemic fashion.

The South Tyrol autonomy is considered an excellent example for representation and peaceful co-existence of multiple cultural groups in Europe. How has the South Tyrol minority protection model evolved over years and what are its current challenges? In his notable book, Matthias Haller investigates these questions and provides a detailed legal analysis of South Tyrol's minority protection regime.

The **introductory part** gives an overview of historical developments that incurred the establishment of the minority autonomy arrangements in South Tyrol. Haller begins the book by laying out the central puzzle of his research, and namely sets the goal to 1) analyse the process of gradual embedment of the South Tyrol minority protection system into the international law system, 2) explain its evolution both as part of Italy's domestic legislation, 3) and examine current legal challenges for the South Tyrol autonomy.

The **second chapter "Foundations and Development of the Minority Protection System before 1992"** analyses how the minority protection system in South Tyrol evolved. The author begins by looking at the international law and its repercussions for the constitutional law. The main argument is that negotiations and further implementation of the Paris Peace Treaty lay the ground for the protection of the German-speaking minority in South Tyrol and consequent establishment of the minority protection system for the Ladin-speaking population. The author addresses the issue of the legal nature of the Treaty: is it a full-scale international treaty with legal commitments for Italy? To answer, Haller investigates the position of the Austrian and Italian governments and presents several well-grounded reasons to consider the treaty a legally binding international instrument. A detailed account of the contents of the Treaty is provided to support the argument.

Special attention is given to the individual and collective rights as an inalienable part of the South Tyrol's minority protection system. The author skilfully illustrates the transformation of the South Tyrol package of measures into an international law instrument because of fulfilling the prerequisites for the establishment of the Estoppel Principle. Interpretation of the Treaty by the parties and lack of clarity in terms of the minimum criteria set by the Treaty are discussed in detail. Due attention is given to the negotiations of the first autonomy statute, the package of measures associated with the latter, and the second autonomy statute.

In the **third succeeding chapter** of the monograph the author discusses the **developments of the minority protection system since 1992**. Ample attention is given to the

constitutional reform of 2001 as a turning point for multi-level changes. Heller classifies the main amendments that affected South Tyrol into three categories: changes with supplementing, neutral or constraining effect. The author reviews the foundations of different principles (e.g., minority protection, unity and autonomy, loyal cooperation) and criteria (e.g., prevalence criterium) envisaged by the reform to analyse the distribution of powers between the state and the autonomous province. However, Haller notes that some new competences, previously not foreseen by the autonomy statute, come into play and while formally aiming at enhancement, in fact, curtail the competencies.

A secondary strand running through the third chapter deals with the right to represent minorities. It is directly related to the statutory regulations that require approval of minority representatives when their legal status or legal changes of the statute are concerned. Haller raises the question if the minority party *Südtiroler Volkspartei* could participate in socio-political life on behalf of minorities and concludes that international law allows for sufficient flexibility in this respect. Hence, the party representing the German- and Ladin-speaking population of South Tyrol could act as their rightful representative at the international level.

Eventually, in the fourth chapter **“Reestablishment of the international law protection level as of 1992”** the author elaborates a roadmap for the potential restoration of the minority protection level for South Tyrol as of 1992. Firstly, the author argues that a two-pronged system of competence distribution should be amended as it is the root cause for the major obstacles impeding a full-scale transfer of essential institutional competences to the autonomous region of South Tyrol. Haller insists that, on one hand, it will lead to elimination of constraints caused by the envisaged principle of uniformity of institutions and, on the other hand, enhance the depth of the competences transferred to the region. It is advised that the autonomy statute should be supplemented by regulations that clearly define the hierarchy and interrelations between the norms inherent in the statute and the constitution as well as to transfer the beneficial norms already existing in the system to the Statute.

Overall, the monograph is an insightful legal study and a worthy contribution to minority studies. The author effectively bridges perspectives in international and domestic law by examining the evolution and transformation of the minority protection regime in South Tyrol. Haller places much weight on succinct explanation of relevant terms and legal phenomena. Hence, both experienced scholars and minority studies novices not familiar with South Tyrol will be able to easily navigate the monograph. On the one hand, the author does an excellent job highlighting the contribution of international law to the upholding of

established minority protection practices. On the other hand, Haller skilfully illustrates that minority protection is a dynamic process heavily dependent on the legal frameworks of the given state. Importantly, the monograph is enriched with a set of multiple recommendations on how to harmonize domestic legislation and ensure political representation of minorities. Likewise, structure of the work and succinct writing style of the author deserves special praise.

There have been multiple attempts to analyze the legal aspects of the minority protection system in South Tyrol. Scholars scrutinized the influence of the EU regulations on the autonomy (see Obwexer, Happacher, Zwilling 2019) and researched different aspects of the multilevel governance and asymmetries inherent in the system (Medda-Windischer/ Carlà, 2017; Palermo 2008). However, the value of this particular book lies in its thorough nature, as the last comprehensive and systematic research of similar scale dates to 1989 (Zeller 1992). In addition to that, the monograph raises a fundamental question of political representation of the minorities of South Tyrol that remains largely underresearched.

One of the potential weaknesses of the book is that it is quite ambitious in its scope. Further to that, the understanding of and the subsequent analysis of the minority protection system is limited to the traditional minorities and excludes the so-called “new” minorities despite them being important part of modern European societies. As further noted by the author, causality of some of the negative developments in the minority protection system resulting from the constitutional reform of 2001 might have existed before the described devolution of powers and maybe questioned as such.

The monograph will be of interest to Eastern European policymakers and minority scholars. Comprehensive legal analysis of the interplay between the international and domestic law as well as the thorough examination of foundations of the current minority protection regime provide invaluable insights into the challenges faced by minorities in decentralized states.

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