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Foreword

PART I: ARTICLES

A. General Articles Section

The Fall of the Iron Curtain and its Significance for the Establishment of Minority Rights Regimes in Eastern Europe

Alan Phillips

Abstract: This article examines the development of minority rights regimes in Europe following the collapse of communism in Eastern Europe. It shows how the foundations for democracy were reinforced by the Helsinki Final Act and the opportunities it created for dialogue. The major concerns of many states to prevent irredentism and violent inter-ethnic conflicts provided the opportunity to adopt international standards on the protection and promotion of minority rights. Civil society, including members of minorities, were in the vanguard. They promoted democratic change in 1989 and played a leading role in influencing minority rights standards and their implementation. The Conclusions of the 1990 CSCE Copenhagen Human Dimension influenced the UNDM, formed the backbone of the FCNM, and became an invaluable set of standards used by the HCNM for conflict prevention. Twenty-five years later, it is evident the fall of the Iron Curtain was highly significant for minority rights regimes throughout Europe.

Keywords: minority rights, Eastern Europe, Iron Curtain, conflict management, civil society, standard setting, international human rights law, FCNM

Populist Policies and the Rise of Xenophobia in Europe

Paul Jackson

Abstract: Primarily focused on recent trends in Western Europe, this article examines a range of activities that fall under the term “far right”. It problematizes this umbrella term before surveying recent developments in the diverse range of political parties, from the United Kingdom Independence Party to Jobbik, identifying a broad trend toward such parties achieving greater electoral success by moderating extremist profiles. Following this, it highlights the complex relationships found between what are often dubbed “populist” far right political parties and other, more “extreme” forms of activity. Finally, it identifies three major “narratives” found in more extreme far right movements in Europe: neo-Nazi, New Right and anti-Muslim. It concludes that movements animated by such agendas do impact far right political parties. It also stresses academic debate needs to engage with figures outside academia, to create new solutions to the issues raised by variegated forms of far right activity.

Keywords: far right, populism, extremism, racism, transnationalism, Islamophobia

B. Special Focus: Regional Citizenship: A Tool for Inclusion of New Minorities in Subnational Entities?

Introduction. Regional Citizenship: A Tool for Inclusion of New Minorities in Subnational Entities?

Roberta Medda-Windischer and Karl Kössler

Regional Citizenship and the Evolution of Basque Immigration and Integration Policies

Eduardo J. Ruiz-Vieytes

Abstract: Immigration policies are of great significance for minority nations, like the Basque Country. Basque nationalism is inclusive and civic; through regional institutions, it has created an informal citizenship with a strong social foundation. This regional citizenship, despite some limitations on regional powers, embraces immigrants by offering social rights to all in order to promote integration in a Basque nation in which identities are not clearly defined. From a technical and legal perspective, there is no specific or separate regional citizenship that could be created by regional institutions in the Basque Country. From a political perspective, however, the principle of inclusive citizenship incorporated by regional policies has played a significant role in the integration process. This trend is similar to the situation in Scotland although it differs slightly from the cases of Catalonia and Quebec, nations in which language is a strong marker of identity.

Keywords: Citizenship; immigration; integration; Basque Country; minority nation; regional, autonomy

The Difference That Being a Minority Territory Makes – A Comparison of the Regulation of Immigrant Citizenship in Catalonia, Andalusia, and Madrid

Dirk Gebhardt

Abstract: Contributing to the debate on immigrant incorporation in subnational minority territories, this chapter looks at how Catalonia's status as a minority territory results in a specific model of immigrant citizenship. It draws on a comparison between the autonomous communities of Catalonia, Andalusia, and Madrid with the latter two territories representing the influence of the left-right axis.

An analysis of five elements of citizenship regulation reveals that Catalonia's status as a minority territory has an influence on an inclusive citizenship philosophy and generous attitude towards granting political rights, while in the other areas (incorporation of cultural difference, newcomer integration and healthcare) the Catalan policies are less inclusive than those in Andalusia, the territory governed by the left.

While there is no conclusive evidence that being a minority territory makes Catalan policies more inclusive, the density of the Catalan regulation of citizenship is the most striking finding emerging from the comparison.

Keywords: Citizenship, immigration, immigrant integration policies, Catalonia, Spain, autonomous communities, national minority territories

Structuring Regional Citizenship: Historical Continuity and Contemporary Salience
Lorenzo Piccoli

Abstract: Recent scholarly research has shown that the traditional Westphalian notion of citizenship has been challenged by developments beyond the boundaries of the nation-state. Nonetheless, while significant attention has been devoted to the emergence of spheres of citizenship above the nation-state, little reference has been made to specific forms of membership in regional polities that could be called ‘citizenship’. This article contributes to this gap by bringing together various literature and historical examples to show that regional citizenship has something to offer in the light of global and transnational dynamic processes. In particular, the contribution highlights the historical continuity and contemporary salience of region citizenship in contexts characterized by strong national minority groups. The article shows that regional citizenship promotes room to maneuver to redefine the membership and the entitlements provided by national citizenship models at a time when state borders are increasingly transcended through multiple forms of participation.

Regionalizing Dimensions of Citizenship: Accommodating Muslim Minorities in Quebec
Beesan T. Sarrouh and Keith Banting

Abstract: Quebec offers an interesting perspective on the relationship between minority nationalism and the integration of immigrants. Immigration into the homeland of a national minority often reinforces its sense of cultural insecurity. Quebec has responded by exercising its substantial jurisdiction within the Canadian federation to develop a distinctive approach to immigrant integration, known as interculturalism. This article examines the controversies surrounding Quebec’s approach. We argue that the actual *content* of current debates, which increasingly focus on the accommodation of religious diversity, is driven primarily by the church–state settlement reached in the province in the middle of the 20th century. However, Quebecers’ minority status does matter. It increases the *frequency* and *intensity* of conflict about diversity policy. In addition, it shapes attitudes toward the *process* for managing disputes. Quebecers’ believe such issues should be resolved within Quebec, and they resist the idea that pan-Canadian institutions should have a central role.

Keywords: minority nationalism; interculturalism; multiculturalism; religious diversity; secularism

Constitutional and Regional Understandings of Citizenship in Italy: Between Inclusion and Exclusion

Laura Ronchetti

Abstract: In recent years the issue of citizenship has been the focus of renewed interest by social scientists so much so that *citizenship studies* have become institutionalized as a field of research. The reasons for this rediscovery lie also in the binary, if not ‘antinomic’, connotations of the term citizenship: ‘constitutional’ and state citizenship, substantive and formal citizenship, state and ‘regional’ citizenship. It is precisely its amphibious inclusion/exclusion nature that makes

the concept of citizenship a critical point in modern constitutionalism. While there is much reflection on the transformation that the concept of citizenship is undergoing, particularly in light of migration as a structural phenomenon, this contribution focuses on ‘the borders’ of citizenship to examine the universal aspect of the forms of coexistence as delineated in the Italian Constitution.

Keywords: Citizenship, migrants, social benefits, Regions, residence, territoriality, Constitution

Is There a Scottish Approach to Citizenship? Rights, Participation and Belonging in Scotland
Eve Hepburn

Abstract: Had Scotland voted for independence in September 2014, it would have gained all the paraphernalia of statehood, including full rights over citizenship. But despite the “no,” can we still detect a Scottish citizenship without the machinery of statehood? This article examines Scotland’s ability to influence citizenship and migration policy from two perspectives. First, from a legal perspective, it examines the Scottish government’s limited control over citizenship, nationality and migration legislation, although it has a broader scope to develop its own approach to migrant integration. Next, the article considers citizenship from a broader political and sociological perspective, focusing on the extent to which the three facets of citizenship identified by Marshall in 1950—civil, social and political rights—have been decentralized with the creation of the Scottish Parliament. Finally, the article examines the ways in which the Scottish approach to citizenship has diverged from the UK (English) approach.

Keywords: citizenship, migrant integration, migration policy, Scotland

The Concept of the Åland Islands’ Regional Citizenship and its Impact on the Inclusion of Migrants

Heidi Öst

Abstract: This article explores how the minority protection regime affects immigrants in the Åland Islands, focusing on the institution of regional citizenship. Is the inclusion of migrants in the Åland Islands of Finland affected by this institution? The article reviews the historical foundations of the minority protection regime, its legislative development, and contemporary debates surrounding the Åland Islands’ institution of regional citizenship. It argues that the right of domicile of the Åland Islands should not be considered a barrier to inclusion for immigrants although it is in part tied to political rights, as well as to the right to acquire property and trade in the Islands. Contemporary debates on the link between the right of domicile and Finnish citizenship attest to the contested nature of this marginal regional citizenship, which, to the extent it performs an exclusionary function, depends on the construction of national citizenship.

Keywords: Åland Islands – regional citizenship – minorities – territorial autonomy – integration

PART II: REPORTS

A. International Developments

Review of the 2014 Monitoring Process of the
Council of Europe Framework Convention for the Protection of National Minorities
Andreea Cârstocea

Abstract: In what concerns the situation of national minorities, 2014 was a complicated year, with the events in Ukraine, the increase in the occurrence of xenophobic discourses and attitudes throughout much of Europe, and the unfavourable economic context all conduced to a political environment in which the rights of national minorities were under pressure, in particular with regard to the Roma minority. Responding to this context, the Advisory Committee carried out an *ad hoc* visit to Ukraine and subsequently issued a Report outlining the main findings of the visit. The Opinions drafted by the Advisory Committee in 2014 reflect the fact that the Roma minority continued to lack sufficient access to basic services and meaningful opportunities for integration in their respective societies. In addition to the country-by-country monitoring activities, throughout 2014, the Advisory Committee continued its work in drafting a new thematic commentary, focusing on the personal scope of application of the Framework Convention.

Keywords: national minorities, the Roma, Crimean Tatars, the Framework Convention for the Protection of National Minorities

Case Law of the European Court on Human Rights Concerning Ethnic, Religious and Linguistic Minorities during 2014: About Differential Margins of Appreciation and the Role of the Prohibition of Discrimination

Kristin Henrad

Abstract: The Court's case law regarding ethnic, religious and linguistic minorities during 2014 reveals that in several respects it leaves (*de facto*) less margin of appreciation to states, focusing on the effective protection of minorities' fundamental rights. In other respects, the Court seemingly prefers to not take a clear stance, and rather grants states a wide margin of appreciation. Overall, the Court is adamant about state obligations to tolerate ethnic and religious minorities and to protect them against private violence. Positive state obligations to accommodate minorities and their special needs and special "way of life" appear still too controversial and devoid of European consensus for the Court to take a stance. Nevertheless, the developments pertaining to the Court's scrutiny of models of state–church relations demonstrate that the "lack of European consensus" is subject to a relative and evolutive assessment.

Keywords: ECtHR, minorities, margin of appreciation, effective protection of fundamental rights

The Activities of the OSCE High Commissioner on National Minorities:

January 2014 to December 2014

Iryna Ułasiuk, Laurentiu Hadirca and William Romans

Abstract: This article provides a summary of activities of the OSCE High Commissioner on National Minorities during 2014. The basic philosophy behind the position's approach remains unchanged: a society at peace with itself will more likely be at peace with its neighbours. To achieve this internal stability, respect for the rights of persons belonging to national minorities is essential. The year 2014 was challenging for the High Commissioner who, together with other OSCE Institutions and structures, faced the challenge of reacting to the rapidly evolving crisis situation in Ukraine. This topic dominated others in the institution's work. Despite this, the High Commissioner continued to engage across the full breadth of her geographic and thematic portfolio. She personally undertook official country visits to twelve participating states, several more than once. During these visits, she promoted her unique approach to conflict prevention—the integration of society with respect for the rights of national minorities.

Keywords: National minorities, conflict prevention, security, integration, interethnic relations, human rights, minority rights

A Further Minor Step—Minority-Related (D)eve(lopme)nts within the European Institutions throughout 2014

Kinga Gál and Kata Eplényi

Abstract: This article covers those minority-related developments, important events and “missing” steps of the EU Institutions, especially the EP and the European Commission, throughout the year of 2014 that relate to traditional national minorities, regional language groups, and national communities. The year 2014 cannot be separated from 2013, thus the study covers one and a half years and analyses—among others—issues such as the first results of the European Citizens Initiative, the adopted resolution on endangered European languages and linguistic diversity in the European Union, the successful re-establishment of the “Intergroup for Traditional Minorities, National Communities and Languages” and the challenges the European Commission faces in this field. The study provides an analytical evaluation of this period. Throughout 2013 and 2014 a few minor steps forward were made within the European institutions on the field related to national minority protection; however, none of these should be over- or underestimated.

Keywords: minority protection, European Union, European Parliament, European Commission, European Citizens Initiative, Roadmap for Linguistic Diversity, lesser used languages, Minority Intergroup

B. National Developments

The Right to Restitution of Tenancy Rights in Croatia:

In Search of Redress for Violations of Individual and Minority Rights of Ethnic Serbs

Petar Durić

Abstract: Cancellation and abolition of specially protected tenancy rights by Croatia in the 1991-1996 period severely affected the country's ethnic Serbs, even to the point of their disappearance. Croatia's discriminatory laws and actions during and after the war, combined with certain other factors, resulted in the vast majority of ethnic Serbs losing their tenancy rights. This has prevented many ethnic Serbs, who left Croatia during the war, from returning to their homes. Since 80% of all urban housing in pre-war Croatia was under specially protected tenancy agreements, the loss of tenancy rights by ethnic Serbs has led to most dramatic demographic changes in the urban areas, with virtually all of Croatia's towns that were majority Serbian before the war becoming majority Croatian. This has adversely impacted the exercise of a number of minority rights of ethnic Serbs. The loss of tenancy rights has thus negatively affected ethnic Serbs both individually and collectively. As such, the chapter explores the legal basis, under international human rights law, of the right to restitution of specially protected tenancy rights in Croatia as an adequate form of redress. It argues that this is a specific right derived from other rights, notably i) the right to respect for home and the right to peaceful enjoyment of possessions; ii) the right to non-discrimination; iii) the right to housing and property restitution and the right to return home; and iv) the right to preservation and development of a minority's identity. The chapter also considers how the right to restitution of tenancy rights in Croatia could be implemented. It suggests that the current housing programme does not provide an effective redress and that several international legal and political mechanisms, along with the European Union in particular, have failed to implement this right thus far, although there may be a recently opened possibility to bring the matter before the Court of Justice of the European Union.

Keywords: tenancy rights; non-discrimination; right to respect for home; right to peaceful enjoyment of possessions; right to return home; Croatia; Ethnic Serbs; EU accession.

The Issue of Unaccompanied Foreign Minors in Spain

Vicente Cabedo Mallol

Abstract: In the first decade of the 21st century, the various Spanish authorities concerned with the issue of child protection found themselves overwhelmed by the mass influx of unaccompanied foreign minors to Spain. The immigration regulations, which were established for the immigration of adults, did not fully cover the rights to which minors were entitled or the issues that affected them. By the end of that decade, with the reform of the immigration regulations, which includes the case law of the Constitutional Court on this matter a comprehensive legal framework for foreign minors will be set up, in principle. Conversely, as revealed in this article, this legal framework does not satisfactorily resolve all the problems involving these minors. This work analyzes, by looking at the migration process of these minors, the rights to which they are entitled and the problems they face.

Keywords: minors, foreigners, unaccompanied, Spain, immigration, rights

PART III: BOOK REVIEWS

Ailsa Henderson, Charlie Jeffery and Daniel Wincott (eds.), *Citizenship after the Nation State: Regionalism, Nationalism and Public Attitudes in Europe* (Palgrave Macmillan, London, 2013). ISBN: 9780230296572

Johanna Mitterhofer

Eve Hepburn and Ricard Zapata-Barrero (eds.), *The Politics of Immigration in Multi-Level States*, Palgrave Politics of Identity and Citizenship Series (Palgrave Macmillan, Basingstoke, 2014), ISBN 9781137358523 (hardcover)

Verena Wisthaler

APPENDIX: List of International Norms