

European Yearbook of Minority Issues

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The European Yearbook of Minority Issues provides a critical and timely review of contemporary developments in minority-majority relations in Europe. It combines analysis, commentary and documentation in relation to conflict management, international legal developments and domestic legislation affecting minorities in Europe.

Part I contains scholarly articles and, in the 2012 volume, features a special focus section on Minority Issues in the Middle East and Northern Africa.

Part II contains reports on the implementation of international instruments for the protection of minorities as well as new developments in relation to the legal protection of minorities at the national level.

Apart from providing a unique annual overview of minority issues for both scholars and practitioners in the field, the Yearbook is an indispensable reference tool for libraries, research institutes as well as governments and international organizations.

The European Yearbook is edited in collaboration with the Minorities and Regional Autonomies Department of the European Academy Bozen/Bolzano.

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Foreword

PART I: ARTICLES

A. General Articles Section

The Protection of Economic, Social and Cultural Rights of Persons Belonging to Marginalized and Vulnerable Groups in Times of Financial Crisis: How to Reconcile the Irreconcilable?

Marco Fasciglione

Abstract: This article aims to investigate the impact of the contemporary financial crisis and economic recession as well as the measures for alleviation of debt and debt-service burdens countries have adopted on the enjoyment of economic, social and cultural rights. Indeed, enjoyment of all human rights requires that adequate resources are allocated to this goal by states; however, available resources are increasingly limited and resource allocation is undermined by measures adopted by states with the purpose of ensuring strict compliance with the commitments derived from foreign debt. From this perspective, the article analyses the extent to which human rights obligations in the field of economic, social and cultural rights can be modified in response to the global financial crisis and to sovereign debt restructuring mechanisms and the limits, if any, to which anti-crisis measures should be circumscribed from a human rights law perspective.

Keywords: economic crisis, austerity measures, social and cultural rights, permeability of rights, state of emergency, non-discrimination, vulnerable groups

Freedom of Expression or Prohibition of Racial Discrimination? Stigmatisation of Roma in the Media and in Political Speech in Italy

Claudia Tavani

Abstract: Italy officially recognised 12 linguistic minorities, but not the Roma. Domestic legislation prohibits discrimination, but racism and xenophobia have reached shocking proportions. This article analyses the living conditions of Roma and reports on their juridical status, referring to the National Strategy for Inclusion and the recent law proposal for their recognition as a minority. It reports cases of political speech inciting discrimination and of negative media stereotyping. The framework on freedom of expression and prohibition of discrimination is reviewed. International jurisprudence is analysed to demonstrate how states are asked to limit freedom of expression to protect specific groups from discrimination. The practice in Italy in comparison to the legal framework shows the discrepancy between laws and practice and proves that negative representations of Roma contribute to their exclusion and violation of international human rights standards. A law recognising their juridical status of minority and strengthening anti-discrimination clauses is needed.

Keywords: Roma, recognition, national strategy for inclusion, freedom of expression, hate speech, limitations, racial hatred

Institutions, Ethno-nationalism, and Sense of Belonging: Comparing Separatist Tendencies in Catalonia and South Tyrol

Andrea Carlà

Abstract: The Catalan government is planning a referendum in the near future over self-determination; in contrast, separatist demands are secondary in South Tyrol. This article examines the factors behind these different trajectories spurred by separatist tensions, focusing on the institutional arrangements implemented to deal with ethnonational groups. It argues that it is necessary to consider the effects of institutions at two levels and their interplay, proposing the following framework of analysis: *within-periphery* (the relationship between the ethnonational group and the rest of the population living in the territory) and *center-periphery* (the relationship between the ethnonational group and the central state). This article demonstrates how Catalan policies integrated the population living in Catalonia at the expense of reinforcing separatist feelings, while South Tyrolean consociational institutions weakened tensions with Rome, which were overshadowed by ethnic tensions in the territory. This comparison forces a reconsideration how we evaluate institutional arrangements to manage ethnonational diversity.

Keywords: secessionism, ethnonationalism, ethnic politics, Catalonia, South Tyrol, consociationalism

From Bilateralization to Europeanization: Continuities and Changes in the Legal, Political and Social Status of the Muslim Minority in Greece and the Greek Orthodox Minority in Turkey

Nesim Şeker

Abstract: The Muslim minority of Greece and the Greek minority of Turkey have several fundamental problems extending from identity, religious freedom, and education to the establishment and management of communal property and equality before the law. The Greek and Turkish governments' policies formed on the basis of negative historical perceptions of each other, and negative reciprocity conditioned by troubled bilateral relations until the 1990s played a crucial role in the rise of such problems. Europeanization processes have recently improved the respective minorities' situations, but their fundamental issues remain unresolved. This article provides an overview of the current situation of the minorities in Greece and Turkey in the context of Greek–Turkish bilateral relations and the Europeanization processes. It aims to articulate the continuities and changes in the legal, political and social status of those minorities by tracking the sources and practices of minority protection and treatment in Greece and Turkey.

Keywords: minority treatment, bilateralization, Greek–Turkish relations, negative reciprocity, Europeanization

Unresolved Questions concerning the Public Use of Minority and Regional Languages in Interactions between Municipal and Provincial Administrations and the Public in the Region of Friuli-Venezia Giulia in Italy

Zaira Vidau

Abstract: This article presents the main features regarding the public use of minority and regional languages as recently developed by the public administrations in the Friuli-Venezia Giulia Region of Italy. This is due to the legal framework for minority protection in Italy as well as to recent legal developments on the regional level, namely the Law for Slovenes 26/2007, the Law for Friulian language 29/2007 and the Law for German-speaking Minorities 20/2009. The contents focus on the relevant weaknesses found in the use of Slovene, Friulian and German between the municipal and provincial administrations and the public, using the data collected

from a series of interviews carried out with employees from various administrations. The analysis shows three main factors of influence: a project-based system of funding, the location and accessibility of language services and the level of awareness among minority and regional language speakers concerning exercising their minority rights.

Keywords: Friulian language, Friuli-Venezia Giulia, German-speaking communities, minority rights, national minorities, regional languages, Slovene national minority

B. Special Focus: Minority Issues in the Middle East and Northern Africa

The Arab Spring and Coptic–Muslim Relations: from Mubarak to the Muslim Brotherhood
Elizabeth Iskander Monier

Abstract: This article unpacks the relationship between Egypt’s Coptic Orthodox Church and the Egyptian state. It argues that although cooperation between Pope Shenouda and former president Mubarak was based partly on the aim of preventing Islamists coming to power and threatening the status of non-Muslims, the Church quickly adapted to a post-Mubarak political environment. This was reflected in the endurance of old paradigms of relations despite changes in leaders since the revolution of 25 January 2011. However, the rise in attacks on Copts and Coptic churches indicates an underlying problem of sectarianism remains, exacerbated by the uprising that these old paradigms cannot address. This article contends this endemic religious tension and the failure to find influential spaces outside the Church for Coptic political participation was exacerbated after the uprising by the decline of a discourse of *al-mawatana* (active citizenship), accompanied by the appearance of a counter-discourse of *matalib fi’awiya* (factional demands).

Keywords: Arab Spring, Copts, citizenship, Egypt, sociopolitical inclusion, sectarianism, Muslim–Christian relations

Inter- and Intra-Ethnic Relations and Power Sharing in Post-Conflict Iraq
Renad Mansour and Faleh Jabar

Abstract: The US-led invasion of Iraq, now marking its ten-year anniversary, turned the 1921 British-built centralised unitary state model, embedded in market economy with special rights to Kurds, Christians, and Jews, upside down. It attempted to reconstruct a market-embedded democracy within a federal decentralised and consociational order, under violent political conditions, and a full-fledged rentier economy with strong command features. The top-down installation of a democratic state, which was based on inter-ethnic power-sharing, created a social schism whereby political representation and the voicing of socio-political grievances became contingent on ethnic and sectarian identities. There soon emerged a realisation of the pitfalls of liberalization and democratization in the context of a multi-ethnic state. This article highlights state-building in Iraq during this transformative period, marked by an inter- and intra-ethnic civil war (2006-2007), a democratic push (2008-2010), and a hyper-centralisation of power under Prime Minister Nuri al-Maliki (2010-present).

Keywords: Iraq, Sectarianism, Federalism, Liberalization, Democratization, Multi-Ethnic State

Challenges for Multiculturalism and Minority Rights in Contemporary Maghreb: The Berber/Amazigh Movement in Morocco and Algeria
Eva Pförtl

Abstract: Since the Arab Spring, Arab states have become the new front line in the struggle for democratization and for open societies. As the experience of other regions has shown, one of the most significant challenges facing democratization relates to minority rights and multiculturalism. This article explores how minority claims are framed and debated in Morocco and Algeria with regard to the Berber/Amazigh movement. The analysis is located within the broader problematic of state–society relations in both countries as well as the liberalization and democratization process after the 2011 uprising in the Arab World.

Keywords: multiculturalism, minority rights, democracy, Berber/Amazigh movement, Algeria, Morocco

PART II: REPORTS

A. International Developments

Developments in the Field of the European Charter for Regional or Minority Languages in 2012 *Vesna Crnić-Grotić*

Abstract: The article shows the developments which took place in 2012 with respect to the monitoring of the application of the European Charter for Regional or Minority Languages by the Committee of Experts. In 2012, the first report on the application of the Charter in Romania, the second report on Montenegro, two third reports (Cyprus and Spain) and two fourth reports (the Netherlands and Finland) became public. The committee evaluated them and proposed a number of recommendations to be made by the Committee of Ministers with a view to improving the state of implementation of this treaty. The monitoring revealed that structured measures and policies are necessary in all fields covered by the Charter including measures of encouragement for speakers of regional or minority languages to use their languages. Imposing limiting percentages cannot be considered such a measure especially if the number of speakers can otherwise be considered sufficient for implementation of the Charter.

Keywords: minority languages, minorities, European Charter for Regional or Minority Languages, Committee of Experts

The Activities of the OSCE High Commissioner on National Minorities: January 2012 to December 2012 *Stéphanie Marsal and Jennifer Croft*

Abstract: This article provides a summary of activities of the OSCE High Commissioner on National Minorities during 2012, including a description of official country visits undertaken by the High Commissioner during the year and project activities supported by the Institution. Thematic initiatives, such as the launch of the *Ljubljana Guidelines on Integration of Diverse Societies*, cooperation between HCNM and other international institutions, and HCNM work at the regional level are also highlighted.

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

The European Union and Minorities 2012
Zora Popova and Marianne Zeh

Abstract: Although minority rights are not central to the European Union (EU) political debates, a number of processes and events in 2012 indicated an increased institutional attention to the majority-minority relations. The shift towards a more coherent and coordinated Roma policy, the introduction of the EU human rights ‘package’ as a key element of EU external action, and the establishment of the EU Special Representative for Human Rights (EUSR) are among the reported changes with potential to make a wider positive impact on minority rights protection. Examining the 2012 developments, the article also takes into account the continuous work and impact of the relevant EU institutions and the other existing mechanisms.

Keywords: Roma, National Strategies for Roma Integration, EU Human Rights ‘Package’, EU Special Representative for Human Rights (EUSR), Fundamental Rights, Stavros Lambrinidis

Review of the 2012 Monitoring Process of the Council of Europe Framework Convention for the Protection of National Minorities
Andreea Cârstocea

Abstract: Throughout 2012, the Advisory Committee continued the regular monitoring of the implementation of the Framework Convention, highlighting policy areas in need of improvement, minority groups in difficult situations, and also publishing a set of recommendations concerning the implementation of linguistic rights for national minorities. The situation of the Roma minority across Europe, as a group continuing to face high levels of discrimination, exclusion, low access to public services and with low levels of participation in public affairs, was particularly emphasised throughout the reports, with the Advisory Committee encouraging state parties to allocate adequate financial resources and adopt suitable policies in this respect. Another focus of activity of the Advisory Committee was represented by the publication of the Thematic Commentary No. 3 on the Language Rights of Persons Belonging to National Minorities, offering state parties an important tool for the implementation of linguistic rights for national minorities.

Keywords: Framework Convention, Advisory Committee, Roma, language rights, national minorities

Turning Twenty: A Year to Reflect on Two Decades of the UN Declaration on the Rights of Minorities
Maggie Murphy

Abstract: The twentieth anniversary of the adoption of the UN Declaration on Minorities provided pause for thought rather than cause for celebration. A stark juxtaposition exists between the still aspirational words of the Declaration and the sheer diversity and degree of rights violations experienced by minorities as documented by treaty bodies, Special Procedures and in the Universal Periodic Review process in 2012. Minorities were caught up in crossborder conflicts raging in Myanmar, Egypt and Syria as well as in their own communities, schools, and families. This article analyses how UN mechanisms tackled these violations and reflects on the steps taken by the OHCHR to increase the visibility of the Declaration and plot the path to better enshrine and shield minority rights for the future. It is clear that in so doing, both the OHCHR and states must genuinely engage minority groups as partners and not view them solely as beneficiaries.

Keywords: UN, human rights, minority issues, OHCHR, treaty bodies, UPR, Special Procedures

B. National Developments

Achieving Equality for the Sinti and Roma of Schleswig-Holstein

Tove H. Malloy

Abstract: This article examines the legislative process of seeking constitutional equality for the Sinti and Roma in Schleswig-Holstein. It traces the developments in the *Landtag* from the first motions to expand protection of Sinti and Roma communities through constitutional revision to the final adoption of the amendment to the Schleswig-Holstein Constitution in 2012. This is a chronological description which includes examinations of the debates on the floor of the *Landtag*. Thus, the aim of the article is to show the dynamics of minority politics in action in modern day Europe. It will be argued that party politics clearly trumped minority policy-making in the case of Sinti and Roma protection. To contextualize the issue, a brief description of the current legal protection of national minorities in Schleswig-Holstein will be offered as well as a short introduction to the Sinti and Roma existence in the *Land*.

Keywords: equality, Roma, minority politics, constitutional amendment, party politics

Ending a Never-Ending-Story: The Solution of the Conflict on Bilingual Topography in Austria – Analysis, Open Questions and Perspectives

Jürgen Pirker

Abstract: The conflict over bilingual topography in Austria cannot be understood without an analysis of its historic and political context. It reveals political interests and conflict areas behind the legal norms concerned and explains the challenges the place-name sign issue set up for the Austrian constitutional state until its solution in 2011. The core of this solution is an amendment of the Austrian Federal Act on National Minorities (*Volksgruppengesetz*). It regulated the rights to bilingual topography and official language in Carinthia and Burgenland partly on the constitutional level to grant a “permanent and stable solution” (ErläutRV 1220 BlgNR 24. GP 6.), but remained highly contested until the end of the debates. This article illustrates the genesis and background of this solution, analyses the main legal problems concerning the regulations on bilingual topography and official language and raises open questions.

Keywords: Bilingual topography, official language, Federal Act on National Minorities, place-name sign solution, Article 7 (Z)(3) Austrian State Treaty, Carinthia

Minority Schools Financing in the Danish-German Border Region

Martin Klatt

Abstract: The Danish-German border region of Schleswig is a model for the settlement of minority conflict, where all involved parts (minorities, regional authorities, kin-states) collaborated to accommodate the two kin-minorities across the border with their majority societies. The model’s main characteristic is a functional cultural autonomy with separate minority institutions, financed cooperatively by the state of residence and the kin-states. This setting was accompanied by a narrative of progress in minority social integration and non-discrimination from the conflict-ridden years following World War II until today. A rupture of this narrative occurred when the Schleswig-Holstein state government unilaterally cut its financial support to Danish minority schools in 2010. Presented here is the historic evolution of the models of minority schooling and financing in the region in context with policy principles of minority protection and non-discrimination, demonstrating the sensitiveness of the issue and how financial conflicts influence the development of constructive minority policies.

Keywords: minority education, non-discrimination, language charter, framework convention, Schleswig

PART III: BOOK REVIEWS

Tarlach McGonagle, *Minority Rights, Freedom of Expression and of the Media: Dynamics and Dilemmas*, School of Human Rights Research Series Volume 44 (Intersentia, Cambridge – Antwerp – Portland, 2011), ISBN 978-94-000-0215-9 (paperback)
Günther Rautz

Sia Spiliopoulou Åkermark (ed.), *The Åland Example and Its Components – Relevance for International Conflict Resolution* (The Åland Islands Peace Institute, 2011), ISBN 978-952-5265-60-6 (paperback)
Sergiu Constantin