



Beyond the (Non) Definition of Minority

Jennifer Jackson-Preece

ECMI Brief # 30
February 2014



The European Centre for Minority Issues (ECMI) is a non-partisan institution founded in 1996 by the Governments of the Kingdom of Denmark, the Federal Republic of Germany, and the German State of Schleswig-Holstein. ECMI was established in Flensburg, at the heart of the Danish-German border region, in order to draw from the encouraging example of peaceful coexistence between minorities and majorities achieved here. ECMI's aim is to promote interdisciplinary research on issues related to minorities and majorities in a European perspective and to contribute to the improvement of interethnic relations in those parts of Western and Eastern Europe where ethnopolitical tension and conflict prevail. ECMI Briefs are written either by the staff of ECMI or by outside authors commissioned by the Centre. As ECMI does not propagate opinions of its own, the views expressed in any of its publications are the sole responsibility of the author concerned.

ECMI Brief # 30
European Centre for Minority Issues (ECMI)
Director: Dr. Tove H. Malloy
© ECMI 2014



Beyond the (Non) Definition of Minority

This Issue Brief aims to analyse past and present definitions of 'minority' in order to evaluate current trends and future opportunities regarding the identification of minority rights holders. In so doing, it assumes that minority identity is part of the broader socio-cultural context. Accordingly, the identity of a minority right holder refers to the attributes and opportunities associated with being a minority, including relationships between individuals and groups, as well as relations between groups. Crucially, it regards these attributes, opportunities and relationships as socially constructed and therefore context / time specific and changeable. The intention here is not to endorse a preferred definition of 'minority', but rather to reflect on how scholars and practitioners should understand and use such definitions.

Jennifer Jackson Preece, February 2014
ECMI Issue Brief #30

I. WHO ARE MINORITY RIGHTS HOLDERS?

Over the last few decades, minority rights have become a widely recognized component of international and domestic rights regimes. A scholar or practitioner wanting to know more about the general form and content of minority rights has a growing list of authoritative texts to reference, including article 27 of the International Covenant on Civil and Political Rights, the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, the Framework Convention for the Protection of National Minorities, the European Charter for Regional and Minority Languages, various recommendations and guidelines issued by the High Commissioner on National Minorities (HCNM), and so forth. These texts provide a reasonably clear and increasingly elaborate indication of the kind of arrangements currently

identified as important for the preservation and promotion of distinct minority identities within states. But there is no article or paragraph within them that one can point to where the key signifier 'minority' itself is defined.

This omission of definition is more than a mere curiosity. It has hugely important implications with regard to the exercise and enforcement of minority rights. A right consists of five main elements: (1) a right holder (the subject of the right) has (2) a claim to some substance (the object of a right) which he or she might (3) assert, or demand, or enjoy, or enforce (exercising a right) against (4) some individual or group (the bearer of the correlative duty) citing in support of his or her claim (5) some particular ground (the justification of a right)¹.

Controversy with regard to the definition of a minority centres upon the identity of (potential) minority rights holders (the first element of a right). *Only* those recognized minority rights holders may assert valid claims



for minority rights enforcement; whereas to dispute or deny a putative minority identity effectively disputes or denies the validity of the associated minority rights claim, to recognize a putative minority identity creates a prima facie valid basis for the associated minority rights claim. In circumstances where the identity of the right holder is vague, rights claims tend to be correspondingly weak and therefore less likely to succeed. Conversely, overly rigid definitions (both wide and narrow) may predetermine the number of persons in the right holder category and thereby also the scope of rights obligations incumbent upon the bearer of the correlative duty (e.g., the state).

II. RIGHTS AND CONTESTED IDENTITIES

Controversies having to do with the identity of right holders are not unique to minority rights. They may arise in any rights claim, and are particularly prominent with respect to so called 'identity rights' – a broad category of rights that include claims based upon gender, sexual orientation, disability, and indigeneity as well as minority status.

But within this category of contested identity claims, the definitional uncertainty of 'minority' arguably stands out. Gender and sexual orientation, rightly or wrongly, tend to be treated as mostly self-explanatory. In the two other cases, even when the key signifiers remain contested, there are various legally codified definitions academics and practitioners may turn to for general guidance. For example, a general definition of 'disability' may be found in article 1 of the UN Convention on the Rights of Persons With Disabilities;

persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments

which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others².

Similarly, article 1 of ILO Convention 107 on Indigenous and Tribal Populations (1957) refers to

members of tribal or semi-tribal populations in independent countries whose social and economic conditions are at a less advanced stage than the stage reached by the other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations' as well as 'members of tribal or semi-tribal populations in independent countries which are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation and which, irrespective of their legal status, live more in conformity with the social, economic and cultural institutions of that time than with the institutions of the nation to which they belong³.

Neither of these definitions regarding disability and indigeneity are wholly satisfactory – indeed, both concepts remain subject to a good deal of contestation in law, policy making and academic debate. Nonetheless, the existence of codified explanatory references does at least provide a certain degree of focus to the debate. The same cannot be said with respect to the concept of a 'minority'. No convention or treaty stipulating minority rights has ever included an explicit definitional provision which clearly identifies minority rights holders.



III. (NOT) DEFINING MINORITIES

The best approximation of a generally applicable authoritative definition of minority is that proposed in a 1977 study prepared for the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities by Francesco Capotorti. According to the Capotorti definition, a minority is

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 the rest of the population and show, if only implicitly, a sense of solidarity directed towards preserving their culture, traditions, religion or language⁴.

In this formulation, 'minorities' are groups set apart by both objective ('ethnic, religious and linguistic') characteristics and a subjective (sense of solidarity) in circumstances of powerlessness ('numerical inferiority' and 'non-dominance') relative to an implied majority. Capotorti does not claim to provide a universal definition – instead the definition he proposes is deliberately 'limited in its objective' and 'is drawn up solely with the application of article 27 of the [ICCPR] Covenant in mind'⁵. Instead, Capotorti emphasizes that

the preparation of a definition capable of being universally accepted has always proved a task of such difficulty and complexity that neither the experts in this field nor the organs of the international agencies have been able to accomplish it to date⁶.

Speaking at Strasbourg two decades later (in 1995), the first HCNM, Max van der Stoel, noted much the same thing:

I know that groups of experts have been sitting for decades trying to come to a common definition. They have never succeeded in doing this and therefore I will not try to give a definition on my own⁷.

And so the lack of definitional clarity persists. When the fourth HCNM, Astrid Thors, began her term of office on 20 August 2013, the 'experts' had still failed to resolve this dilemma. As both Capotorti and Stoel suggest, this failure is not due to a lack of effort. There have been many attempts at definitional guidance regarding those persons and groups that might legitimately claim minority rights. Across these various constructions, it is possible to discern at least five distinct and recurrent approaches to the problem of definition.

Variations on Capotorti

Several of these precursors and successors are noticeably similar to that definition proposed by Capotorti in highlighting various combinations of objective, subjective and power criteria. For example, in its 1930 Advisory Opinion regarding the Greco-Bulgarian Convention, the PCIJ described a minority as:

a group of persons living in a given country or locality, having a race, religion, language and traditions of their own and united by this identity of race, religion, language and traditions in a sentiment of solidarity, with a view to preserving their traditions, maintaining their form of worship, ensuring the instruction and upbringing of their children in accordance with the spirit and traditions of their race and rendering mutual assistance to each other⁸.

A half-century later, the Council of Europe's Parliamentary Assembly (COEPA)



Recommendation 1134 (1990) characterizes 'national minorities' in strikingly similar language:

*separate or distinct groups, well defined and established on the territory of a state, the members of which are nationals of that state and have certain religious, linguistic, cultural or other characteristics which distinguish them from the majority of the population*⁹.

While Capotorti's emphasis on non-dominance is noticeably absent from both the PCIJ and a COEPA definition, the core content is otherwise broadly comparable. So, too, is the definition noted in a subsequent (1986) report prepared for the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities. In this attempt, Jules Deschene modifies the original Capotorti version to include alongside powerlessness an explicit reference to an equality remedy:

*a group of citizens of a State, constituting a numerical minority and in a non-dominant position in that State, endowed with ethnic, religious and linguistic characteristics which differ from those of the majority of the population, having a sense of solidarity with one another, motivated, if only implicitly, by a collective will to survive and whose aim is to achieve equality with the majority in fact and in law*¹⁰.

Minority as autochthonous group

There is also a noteworthy tendency to privilege autochthonous groups over and above groups comprised of migrants and their descendants that might otherwise satisfy the Capotorti criteria. While Capotorti himself limits minority status to 'nationals of the State', he does not specifically

exclude those migrants or their descendants who have become nationals of the State in which they reside. However, article 1 of the European Charter for Regional and Minority Languages (1992) does precisely that. It defines those languages within its remit as:

*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 the State or the languages of migrants*¹¹.

A similar strategy has been adopted by various signatories of the Council of Europe's Framework Convention for the Protection of National Minorities (FCNM). According to paragraph 12 of its accompanying Explanatory Report, the FCNM does not define 'national minority' because it was 'impossible to arrive at a definition capable of mustering general support of all Council of Europe member States'¹². As a result, signatory states either set out their own definition when they ratified the FCNM or stipulated a working definition in their first state report on national compliance with FCNM undertakings. Many of these state signatories privilege autochthonous groups either by naming specific 'historic' groups to whom the FCNM will apply, by openly excluding non-citizens and / or (im)migrant-origin groups, by applying a qualifying time period of presence within the State, or some combination thereof. For example, in the Netherlands, national minorities are understood to be 'those groups of citizens who are traditionally resident within the territory of the State and who live in their traditional/ancestral settlement areas, but who differ from the majority population through their own language, culture and history – i.e. have an identity of their own – and who wish to preserve that identity'¹³. Accordingly, the Framework



Convention has been declared applicable 'only to the Frisians in the Netherlands, as it is only the Frisians who fulfil these criteria within the Netherlands'¹⁴.

In a similar vein, the Republic of Croatia considers national minorities under the FCNM to be members of the 'autochthonous national minorities' as set out in its Constitution¹⁵. The Constitution of the Republic of Croatia identifies as 'autochthonous minorities' Serbs, Czechs, Slovaks, Italians, Hungarians, Jews, Germans, Austrians, Ruthenians, and Ukrainians who are citizens of the Republic of Croatia.

Alternatively, Hungary applies its FCNM obligations in accordance with Subsection (2) of Section 1 of its Minorities Act, according to which 'national and ethnic minorities are all groups of people that have lived in Hungary for at least one century; they represent a numerical minority in the country's population; their members are Hungarian citizens; they are distinguished from the rest of the population by their own languages, cultures, and traditions; they demonstrate a consciousness of an affinity that is aimed at preserving all of these and expressing and protecting the interests of their historical communities'¹⁶. According to this Act, those national groups considered native to Hungary are: Bulgarians, Gypsies, Greeks, Croatians, Poles, Germans, Armenians, Romanians, Ruthenians, Serbians, Slovakians, Slovenians, and Ukrainians.

Meanwhile, Bill 1998/99:143 National Minorities in Sweden identifies that the following criteria should be satisfied for a group to be regarded as a national minority there: (1) groups with a pronounced affinity who, as regards numbers in relation to the remainder of the population, have a non-dominating position in society; (2) religious, linguistic, traditional and/or cultural belonging that distinguish it from

the majority; (3) the individual and also the group should have a desire and ambition to retain their identity; and (4) finally, the group should have an 'historic or long bond with Sweden'¹⁷. The Government of Sweden 'does not consider that it is possible to draw an absolute limit measured in years' but asserts that 'minority groups whose minority culture existed in Sweden prior to the 20th century may be said to satisfy the requirement'¹⁸.

Such privileging of time and tradition over and above other objective or subjective characteristics is not without controversy. It goes against *United Nations General Comment No. 23: the rights of national minorities* (1994) where the Office of the High Commissioner of Human Rights affirms that degree of permanence within the state is irrelevant to minority rights arising under article 27 ICCPR:

those rights simply are that individuals belonging to those minorities should not be denied the right, in community with members of their group, to enjoy their own culture, to practise their religion and speak their language. Just as they need not be nationals or citizens [note that this is contrary to Capotorti] they need not be permanent residents. Thus, migrant workers or even visitors in a State party constituting such minorities are entitled not to be denied the exercise of those rights. As any other individual in the territory of the State party, they would, also for this purpose, have the general rights, for example, to freedom of association, of assembly, and of expression. The existence of an ethnic, religious or linguistic minority in a given State party does not depend upon a decision by that State party but requires to be established by objective criteria'¹⁹.



That said, paragraph 10 of Asbjørn Eide's 2005 *Commentary on the UN Declaration on Minorities* acknowledges that

*while citizenship as such should not be a distinguishing criterion that excludes some persons or groups from enjoying minority rights under the Declaration, ...Those who have been established for a long time on the territory may have stronger rights than those who have recently arrived*²⁰.

In Eide's view (see paragraph 11 of his commentary),

*the 'best approach' appears to be to avoid making an absolute distinction between "new" and "old" minorities by excluding the former and including the latter, but to recognize that in the application of the Declaration the "old" minorities have stronger entitlements than the "new"*²¹.

Minority as individual choice

Still other definitions take a quintessentially liberal approach to the problem of identifying minorities and resolve this under the guise of individual choice. Thus, for example, paragraph 32 of the 1990 Copenhagen Document maintains that to belong to a national minority is a matter of a person's individual choice and no disadvantage may arise from the exercise of such choice'²². Yet even in this liberal orientation, choice is not arbitrary but remains constrained by subjective and / or objective criteria. Already in 1993, HCNM Max van der Stoel was quick to make this caveat:

In this connection I would like to quote the Copenhagen Document of 1990, which is of fundamental importance to minorities' issues within CSCE. It states that "To belong to a

*national minority is a matter of a person's individual choice". Even though I may not have a definition of what constitutes a minority, I would dare to say that I know a minority when I see one. First of all, a minority is a group with linguistic, ethnic or cultural characteristics which distinguish it from the majority. Secondly, a minority is a group which usually not only seeks to maintain its identity but also tries to give stronger expression to that identity*²³.

The Explanatory Report which accompanies the Framework Convention provides a similar cautionary note: while 'Paragraph 1 leaves it to every such person to decide whether or not he or she wishes to come under the protection flowing from the principles of the framework Convention', this paragraph 'does not imply a right for an individual to choose arbitrarily to belong to any national minority'²⁴. Instead, 'the individual's subjective choice is inseparably linked to objective criteria relevant to the person's identity'.

Adjectives in lieu of definitions

The various interwar treaties which established the League of Nations System of Minority Guarantees did not contain any definition of 'minority' but instead simply referred to 'persons who belong to racial, religious or linguistic minorities' or named specific groups considered especially vulnerable (e.g., Jews in Poland and Muslims in Yugoslavia). A similar tactic was adopted by the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. According to Eide (in paragraph 7 of his commentary), 'the Declaration does not, in its substantive provisions, make distinctions between these categories' but this 'does not exclude the possibility that the needs of the different



categories of minorities could be taken into account in the interpretation and application of the various provisions²⁵.

Facts in lieu of definitions

Another recurrent approach taken by international organisations is to assert the primacy of 'fact' over 'definitions'. As early as 1928, in the Upper Silesia Schools Case, the PCIJ ruled (see paragraph 97 of the judgement) that whether or not a person belonged to a minority was a 'question of fact and not solely one of intention'²⁶. The text of article 27 of the International Covenant on Civil and Political Rights similarly prioritize fact phrased as existence:

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language²⁷.

Max van der Stoep, said much the same thing in 1993 when he remarked that 'the existence of a minority is a question of fact and not of definition...'²⁸. Subsequently, in 1995, Stoel provided further insight into what he took to be the 'determining facts' regarding a national minority:

It is a group with an identity of its own which clearly distinguishes it from that of a majority and in addition it has the clear wish to maintain or even to strengthen that identity. And my experience is – and probably yours – that you recognize a national minority when you see it²⁹.

Thus, once more, emphasis is placed on a mixture of subjective and objective criteria in identifying minority right holders.

These five recurrent approaches to the definition of minorities are not simply heterogeneous. They imply divergent views of identity (what comprises it) and power (who ought properly to exercise it). Admittedly, there are affinities between them, as, for example, in the privileging of State nationals in the first (variations on Capotorti) and third (autochthonous) or in the emphasis on subjective determination in the first (variations on Capotorti) and fourth (choice). But there are strong tensions as well. The fourth (adjectives) and fifth (facts) reject subjectivity while the third (choice) rejects objectivity and the first (Capotorti) and second (autochthonous) attempt to combine the objective with the subjective.

IV. IDENTIFICATION AND (DIS)EMPOWERMENT

If the goal in this debate is to better understand that process through which persons with certain attributes come to share a definition of themselves and their predicament in terms of a 'minority', it is arguably best to go about it in a manner that highlights the contingent and variable relationship between identity and power. And in order accomplish that, it is first necessary to disentangle the particular use of minority from the broader, and more generic, concept of 'identity' to which it relates.

A 'minority' is a type of 'identity'. As such, the term minority may refer to either a social category and / or a personal identity. Identity including minority identity used as a social category refers to a group of persons distinguished by (alleged) characteristic features or attributes and a name that is commonly used either by the people designated, others, or both.



The social category usage occurs most frequently in the definitional debates surrounding minority as can be seen in Capotorti's definition, those definitions which are variations of Capotorti, as well as in definitions which emphasize autochthonous status. At the same time, identity including minority identity may also designate a personal identity defined by a distinguishing characteristic (or characteristics) that an individual 'takes a special pride in or views as socially consequential'³⁰. The personal identity usage is less prominent within the definitional debate on minority, but it clearly resonates with the liberal concern to privilege choice as a crucial factor in the exercise of minority rights.

Much of the political force and normative interest in the generic 'identity' and the more specific 'minority' derives from the implicit linkage between these two usages, namely the core assumption that social categories are bound up with the bases of an individual's self-worth³¹. Whether as social category or as personal identity, the concepts identity and minority require the awareness of self and other. Both those who possess the identity as well as those who do not are expected to have knowledge of that identity. In the definitional debate surrounding 'minority', this duality is commonly expressed in terms of a tension between the subjective and the objective, the values and interests of the minority group or individual member versus the values and interests of the wider society designated as the 'majority'. Indeed, much of the history of argumentation over minority identity invokes the privileging of so called objective over subjective criteria or, less commonly, of subjective over objective criteria.

The crucial distinction between the more generic concept of identity and the specific concept of minority is the presumption of

(dis)empowerment attached to the latter. Identity per se is taken to be or ought to be, a source of individual esteem and collective action. Yet the predicament of minorities is construed as precisely the reverse, a situation of individual *disesteem* and collective *inaction*. A minority is thus a social category or personal identity that is fundamentally, and (when compared with the generic identity) perversely, *disempowering*. Francesco Capotorti expresses this core qualification ascribed to minorities in terms of 'non-dominance'. Whereas majorities are imagined as powerful (the quintessential insiders), minorities are imagined as powerless (the quintessential outsiders). The exercise of minority rights is intended to overcome or ameliorate this perceived power differential. Recognition as a minority right holder is thus imagined as fundamentally empowering, which may explain Jules Deschene's emphasis on 'the aim to achieve equality with the majority in fact and in law'.

A crucial problem with many of the definitional approaches to minority as both social category and personal identity is the tendency to treat each of these usages as clearly bounded and immutable when in practice they are multiple, overlapping, and time / place contingent. As a result, not only are 'social categories' socially constructed but so also are peoples' sense of themselves as distinct individuals. Neither a purely objective nor a purely subjective nor even a dualist objective vs. subjective approach is adequate to fully comprehend the combined self and other dynamic that underscores minority identity. Instead, both minority (and majority) identity is better understood as *intersubjective*, that is at once part shared and part idiosyncratic. It is precisely this intersubjectivity which gives rise to that variation of observable minority / majority power relationships with which



minority rights must contend. ALL of the following minority / majority scenarios are possible and may be experienced by the same person albeit in different contexts: (1) an individual recognizes him or herself as belonging to a minority and is recognized and positively affirmed as such by others; (2) an individual recognizes him or herself as belonging to a minority but is not so recognized by others; (3) an individual self-identifies as a minority and is so recognized by others but experiences inequality or disesteem as a result; (4) an individual is recognized as a minority by others, whether positively or negatively, while not considering that minority identity personally meaningful or significant at least some and perhaps even most of the time. Arguably, NONE of the five main minority formulas are fully able to engage with these multiple and potentially concurrent possibilities because they lack an intersubjective awareness.

This theoretical insight derived from that body of social constructivist scholarship is particularly relevant to minority circumstances because it underscores how a social process beyond the individual's control crucially shapes identities the individual may understand as deeply personal. In any category of identity (e.g., gender, disability, race, ethnicity, etc.), self-identifications (who I think I am) will inevitably be inextricably linked with other-identifications (who you think I am). Self-identification is always in significant measure a response to prevailing identification by others (us versus them). At the same time, other-identification may also be a response to rival self-identifications (them versus us), especially where prevalent asymmetries of power are involved (e.g., as between minorities and majorities). These social processes of interconnected self and other-identification are arguably the key to maintaining, and thus

potentially also overcoming, minority (dis)empowerment.

V. FRAMING MINORITIES AND MAJORITIES

The process of 'framing' as derived from social movement theory provides an important insight into the dynamics of that self / other identification process which creates, perpetuates but may also transform existing minority / majority identities. 'Frames' - or the norms and ideas we selectively use to characterize subjects - influence the ways in which we think about and respond to those same subjects. From this perspective, the identification of social categories like minority or majority are understood to involve power relationships between a communicator and a target audience both of whom are embedded in a particular cultural context³².

Framing is 'an active processual phenomenon that implies agency and contention...it is active in the sense that something is being done and processual in the sense that what is evolving is the work of organisations or actors'³³. Crucially, framing is also deliberate and goal-directed: 'frames are developed and deployed to achieve a specific purpose—to recruit new members, to mobilize adherents, to acquire resources, and so forth'³⁴. In general, frames are more likely to influence the target audience if they are cognitively plausible, dramatically compelling, and resonate with pre-existing social narratives and shared cultural values³⁵.

This social-cultural dimension is particularly relevant to 'movements that have been stigmatized because their beliefs and / or values contradict the dominant culture's core values'³⁶ and to 'movements reliant on conscience constituents who are strikingly



different from the movement beneficiaries³⁷. Significantly, both of these important caveats regarding socio-cultural resonance apply to the minority rights discourse. As already noted, the minority predicament is assumed to be one of non-dominance and is commonly juxtaposed against the dominant (majority) culture. As with all rights based movements, minority rights are reliant on actors (international organisations, non-governmental organisations, states, etc.) other than the putative minority rights holders. A process framing approach to minority self and other identification thus draws our attention to continuities and discontinuities between pre-existing socio-cultural norms and current efforts to overcome social, economic and political inequalities between persons belonging to different groups. For the purpose of this Issue Brief, conceptualizing minority identity in terms of a framing process is therefore doubly useful: (1) it offers the basis for a theory of political action linked to identity construction; and (2) it suggests a method of analysis in which to evaluate the socio-cultural resonance of putative minority identifications with their respective target audience³⁸.

VI. CONCLUSION

The goal of this Issue Brief has not been to argue in favour of a preferred definition of 'minority'; instead, its express aim has been to reflect upon how scholars and practitioners should understand and use such definitions. The great irony here is that as lived socio-cultural / political reality 'minority identity' is heavily loaded and deeply contested, and yet scholars and practitioners have no good alternative to the concept 'minority'. As a result, it is absolutely essential that scholars and practitioners adopt a critical and self-reflexive stance towards their use of 'minority' and indeed its alter ego 'majority'. This means, most obviously,

emphasizing that their use of the concept 'minority' does not designate a homogeneous socio-cultural group but a heterogeneous category of self and other identification. Beyond this, and more substantively, it means focusing on the changing ways in which the category 'minority' is applied by various actors (e.g., states, international organisations, non-governmental organisations, scholars, journalists, etc.) irrespective of whether they purport to represent minorities, majorities or various conscience constituents.

Accordingly, the minority research agenda should concentrate explanatory effort upon the social processes of identification as a minority. Whereas a definition is 'a statement expressing the essential nature of something', 'identification' is an active term derived from the verb 'to identify' meaning 'to recognize or distinguish'³⁹. For this reason Brubakers and Cooper contend that it lacks the 'reifying connotations of identity'⁴⁰. Because identification is a social process it is arguably better able to characterize nuanced power differentials and to explain how power dynamics may change both between actors and across time and place (as per the minority / majority scenarios noted in this Issue Brief). *If*, as described here, the minority predicament is fundamentally one of (dis)empowerment, and *if* the exercise of minority rights is intended to ameliorate that predicament through empowerment, then a process based approach has clear advantages over a concept based approach. By applying insights from the social movement literature on 'process frames', we can analyse the competing constructions of 'minority' in self and other discourses, rather than unwittingly reinforcing them. When the analysis shifts from concept to process, the definitional quagmire itself is revealed to be yet another social process of identification where



each variation is intended to preserve and promote a distinct minority / majority power dynamic. Ultimately, minority empowerment requires more than simply to 'know a minority when you see one'; it invites both the scholar and the practitioner to ask who is the seer and who is the seen, where are they looking from and what are they looking at, and to what purpose is their knowledge directed.



Bibliography

Benford, Robert D., and David A. Snow. "Framing Process and Social Movements: An Overview and Assessment." *Annual Rev. Sociology* 26(2000): 611–639.

Brubaker, Rogers, and Frederick Cooper. "Beyond Identity." *Theory and Society* 29(2000): 1–47.

Caportoti, Francesco. "The International Protection of Persons Belonging to Ethnic, Religious and Linguistic Minorities since 1919." United Nations Economic and Social Council. 1977.

Council of Europe. *Framework Convention for the Protection of National Minorities and Explanatory Report*. adopted February 1995. Accessed February 7, 2014.
[http://www.coe.int/t/dgh/monitoring/minorities/1_AtGlance/PDF_H\(95\)10_FCNM_ExplanReport_en.pdf](http://www.coe.int/t/dgh/monitoring/minorities/1_AtGlance/PDF_H(95)10_FCNM_ExplanReport_en.pdf).

Council of Europe. *Recommendation 1134- "On the Rights of Minorities."* adopted 1 October 1990. Accessed February 7, 2014.
<http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta90/EREC1134.htm>.

Council of Europe. *The European Charter for Regional and Minority Languages*. adopted 5 November 1992. Accessed February 7, 2014.
<http://conventions.coe.int/Treaty/en/Treaties/Html/148.htm>.

Council of Europe: Secretariat of the Framework Convention for the Protection of National Minorities. *Report Submitted by Croatia Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities*. 16 March 1999. ACFC/SR(1995)005. Accessed February 7, 2014.
http://www.coe.int/t/dgh/monitoring/minorities/3_fcndocs/PDF_1st_SR_Croatia_en.pdf.

Council of Europe: Secretariat of the Framework Convention for the Protection of National Minorities. *Report Submitted by Hungary Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities*. 21 May 1999. ACFC/SR(1999)010. Accessed February 7, 2014.
http://www.coe.int/t/dgh/monitoring/minorities/3_fcndocs/PDF_1st_SR_Hungary_en.pdf.

Council of Europe: Secretariat of the Framework Convention for the Protection of National Minorities. *Report Submitted by the Netherlands Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities*. 16 July 2008. ACFC/SR (2008)001. Accessed February 7, 2014.
http://www.coe.int/t/dgh/monitoring/minorities/3_fcndocs/PDF_1st_SR_TheNetherlands_en.pdf



Council of Europe: Secretariat of the Framework Convention for the Protection of National Minorities. *Report Submitted by Sweden Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities*. 8 June 2001. ACFC/SR (2001)003. Accessed February 7, 2014.

http://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/PDF_1st_SR_Sweden_en.pdf.

Creed, Douglas W. E., Maureen A. Scully, and John R. Austin. "Clothes Make the Person? The Tailoring of Legitimizing Accounts and the Social Construction of Identity." *Organization Science* 13(2002): 475–496.

Fearon, James D. "What Is Identity as We Now Use the Word?" Unpublished paper, 1–45.

Gamson, William A. "The Social Psychology of Collective Action." In *Frontiers in Social Movement Theory*, edited by A. D. Morris and C. M. Mueller, 53–76. New Haven, CT: Yale University Press, 1992.

International Labour Organization. *Indigenous and Tribal Population Convention*. adopted 26 June 1957. Accessed February 7, 2014.

http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312252.

Merriam Webster Online Dictionary. Accessed February 7, 2014. <http://www.merriam-webster.com/>

Organization for Security and Co-operation in Europe. *Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE*. adopted June 1990. Accessed February 7, 2014. <http://www.osce.org/odihr/elections/14304>.

Paulsen, Ronnelle and Karen Glumm. "Resource Mobilization and the Importance of Bridging Beneficiary and Conscience Constituents." *Natal Journal of Sociology* 9(1995): 37–62.

Rights of Minorities in Upper Silesia (Germany v. Poland). 1928 P.C.I.J. (ser. A) No. 15 (Apr. 26). Accessed February 7, 2014.

http://www.worldcourts.com/pcij/eng/decisions/1928.04.26_upper_silesia.htm.

Stoel. Max van der . "Minorities. Human Rights and the International Community." Strausberg. 7 July 1955. Accessed February 7, 2014. <http://www.osce.org/hcnm/36591>.

Stoel. Max van der . CSCE Human Dimension Seminar on "Case Studies on National Minority Issues: Positive Results." Warsaw. 24 May 1993. Accessed February 7, 2014.

<http://www.osce.org/hcnm/38038>.

Vincent. R.J. *Human Rights and International Relations*. Cambridge: Cambridge University Press. 1986.



United Nations Commission on Human Rights. *Rights of Persons Belonging to National, Ethnic, Religious and Linguistic Minorities*. 1985. UN Doc.E/CN.4/1986/43.

United Nations. *Convention on the Rights of Persons with Disabilities*. Accessed February 7, 2014. <http://www.un.org/disabilities/convention/conventionfull.shtml>.

United Nations Human Rights Committee. *CCPR General Comment No. 23: Article 27 (Rights of Minorities)*. 8 April 1994. CCPR/C/21/Rev.1/Add.5. Accessed February 7, 2014. <http://www.unhcr.ch/tbs/doc.nsf/0/fb7fb12c2fb8bb21c12563ed004df111>.

United Nations. *International Covenant on Civil and Political Rights*. adopted 16 December 1966. Accessed February 7, 2014. <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

United Nations Sub-Commission on the Promotion and Protection of Human Rights. *Commentary Of The Working Group On Minorities To The United Nations Declaration On The Rights Of Persons Belonging To National Or Ethnic, Religious And Linguistic Minorities*. 4 April 2005. E/CN.4/Sub.2/AC.5/2005/2. Accessed February 7, 2014. http://www.ohchr.org/Documents/Events/Minority2012/G0513385_en.pdf.

Watson. Scott. “Framing the Copenhagen School: Integrating the Literature on Threat Construction.” *Millennium – Journal of International Studies* 40(2012): 379–301.



Notes

¹ R.J. Vincent, *Human Rights and International Relations* (Cambridge: Cambridge University Press, 1986), 8.

² United Nations, *Convention on the Rights of Persons with Disabilities*, accessed February 7, 2014, <http://www.un.org/disabilities/convention/conventionfull.shtml>.

³ International Labour Organization, *Indigenous and Tribal Population Convention*, adopted 26 June 1957, accessed February 7, 2014,

http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312252.

⁴ Francesco Caportoti, “The International Protection of Persons Belonging to Ethnic, Religious and Linguistic Minorities since 1919”, United Nations Economic and Social Council, 1977, 96.

⁵ Caportoti, “The International Protection”, 96.

⁶ Caportoti, “The International Protection”, 5.

⁷ Max van der Stoep, “Minorities, Human Rights and the International Community”, Strausberg, 7 July 1955, accessed February 7, 2014, <http://www.osce.org/hcnm/36591>.

⁸ Caportoti, “The International Protection”, 5.

⁹ Council of Europe, *Recommendation 1134- “On the Rights of Minorities”*, adopted 1 October 1990, accessed February 7, 2014, <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta90/EREC1134.htm>.

¹⁰ United Nations Commission on Human Rights, *Rights of Persons Belonging to National, Ethnic, Religious and Linguistic Minorities*, 1985, UN Doc.E/CN.4/1986/43.

¹¹ Council of Europe, *The European Charter for Regional and Minority Languages*, adopted 5 November 1992, accessed February 7, 2014, <http://conventions.coe.int/Treaty/en/Treaties/Html/148.htm>.

¹² Council of Europe, *Framework Convention for the Protection of National Minorities and Explanatory Report*, adopted February 1995, accessed February 7, 2014,

[http://www.coe.int/t/dghl/monitoring/minorities/1_AtGlance/PDF_H\(95\)10_FCNM_ExplnReport_en.pdf](http://www.coe.int/t/dghl/monitoring/minorities/1_AtGlance/PDF_H(95)10_FCNM_ExplnReport_en.pdf).

¹³ Council of Europe: Secretariat of the Framework Convention for the Protection of National Minorities, *Report Submitted by the Netherlands Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities*, 16 July 2008, ACFC/SR(2008)001, accessed February 7, 2014,

http://www.coe.int/t/dghl/monitoring/minorities/3_fcnmdocs/PDF_1st_SR_TheNetherlands_en.pdf.

¹⁴ Council of Europe, *Report Submitted by the Netherlands*.

¹⁵ Council of Europe: Secretariat of the Framework Convention for the Protection of National Minorities, *Report Submitted by Croatia Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities*, 16 March 1999, ACFC/SR(1999)005, accessed February 7, 2014,

http://www.coe.int/t/dghl/monitoring/minorities/3_fcnmdocs/PDF_1st_SR_Croatia_en.pdf.

¹⁶ Council of Europe: Secretariat of the Framework Convention for the Protection of National Minorities, *Report Submitted by Hungary Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities*, 21 May 1999, ACFC/SR(1999)010, accessed February 7, 2014,

http://www.coe.int/t/dghl/monitoring/minorities/3_fcnmdocs/PDF_1st_SR_Hungary_en.pdf.

¹⁷ Council of Europe: Secretariat of the Framework Convention for the Protection of National Minorities, *Report Submitted by Sweden Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities*, 8 June 2001, ACFC/SR (2001)003, accessed February 7, 2014,

http://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/PDF_1st_SR_Sweden_en.pdf.

¹⁸ Council of Europe, *Report Submitted by Sweden*.

¹⁹ United Nations Human Rights Committee, *CCPR General Comment No. 23: Article 27 (Rights of Minorities)*, 8 April 1994, CCPR/C/21/Rev.1/Add.5, accessed February 7, 2014,

<http://www.unhcr.ch/tbs/doc.nsf/0/fb7fb12c2fb8bb21c12563ed004df111>.

²⁰ United Nations Sub-Commission on the Promotion and Protection of Human Rights, *Commentary Of The Working Group On Minorities To The United Nations Declaration On The Rights Of Persons Belonging To National Or Ethnic, Religious And Linguistic Minorities*, 4 April 2005, E/CN.4/Sub.2/AC.5/2005/2, accessed February 7, 2014, http://www.ohchr.org/Documents/Events/Minority2012/G0513385_en.pdf.

²¹ United Nations Sub-Commission on the Promotion and Protection of Human Rights, *Commentary Of The Working Group*.



- ²² Organization for Security and Co-operation in Europe, *Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE*, adopted June 1990, accessed February 7, 2014, <http://www.osce.org/odihr/elections/14304>.
- ²³ Max van der Stoel, CSCE Human Dimension Seminar on "Case Studies on National Minority Issues: Positive Results", Warsaw, 24 May 1993, accessed February 7, 2014, <http://www.osce.org/hcnm/38038>.
- ²⁴ Council of Europe, *Framework Convention*.
- ²⁵ United Nations Sub-Commission on the Promotion and Protection of Human Rights, *Commentary Of The Working Group*.
- ²⁶ *Rights of Minorities in Upper Silesia* (Germany v. Poland), 1928 P.C.I.J. (ser. A) No. 15 (Apr. 26), accessed February 7, 2014, http://www.worldcourts.com/pcij/eng/decisions/1928.04.26_upper_silesia.htm.
- ²⁷ United Nations, *International Covenant on Civil and Political Rights*, adopted 16 December 1966, accessed February 7, 2014, <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.
- ²⁸ Max van der Stoel, CSCE Human Dimension Seminar.
- ²⁹ Max van der Stoel, "Minorities, Human Rights".
- ³⁰ James D. Fearon, "What Is Identity as We Now Use the Word?", Unpublished paper, 2.
- ³¹ Fearon, 2.
- ³² Scott Watson, "Framing the Copenhagen School: Integrating the Literature on Threat Construction", *Millennium-Journal of International Studies* 40(2012): 285.
- ³³ Robert D. Benford, David A. Snow, "Framing Process and Social Movements: An Overview and Assessment", *Annual Rev. Sociology* 26(2000): 614.
- ³⁴ Benford, Snow, 624.
- ³⁵ William A. Gamson, "The Social Psychology of Collection Action," in *Frontiers in Social Movement Theory*, ed. Aldon D. Morris and Carol M. Muller (New Haven: Yale University Press, 1992).
- ³⁶ Benford, Snow; Douglas W.E Creed, Maureen A. Scully and John R. Austin, "Clothes Make a Person? The Tailoring of Legitimizing Accounts and the Social Construction of Identity", *Organization Science* 13(2002): 475-496.
- ³⁷ Ronnelle Paulsen and Karen Glumm, "Resource Mobilization and the Importance of Bridging Beneficiary and Conscience Constituents", *Natal Journal of Sociology* 9(1995): 37-62.
- ³⁸ Creed, Scully and Austin, 481.
- ³⁹ Merriam Webster Online Dictionary, accessed February 7, 2014, <http://www.merriam-webster.com/>
- ⁴⁰ Rogers Brubaker and Frederick Cooper, "Beyond Identity", *Theory and Society* 29(2000): 14.



ABOUT THE AUTHOR

Dr. Jennifer Jackson-Preece

Associate Professor of Nationalism at The London School of Economics and Political Science

***Contact: j.jackson-preece@lse.ac.uk**

FOR FURTHER INFORMATION SEE

EUROPEAN CENTRE FOR MINORITY ISSUES (ECMI)

Schiffbruecke 12 (Kompagnietor) D-24939 Flensburg

☎ +49-(0)461-14 14 9-0 * fax +49-(0)461-14 14 9-19 *

E-Mail: info@ecmi.de * Internet: <http://www.ecmi.de>