

ECMI  
**REPORT**



EUROPEAN CENTRE  
FOR  
MINORITY ISSUES

**ECMI Workshop on the Definition of  
“Minority”  
Flensburg, Germany;  
26-27 September 2013**

*Tove H. Malloy  
Oana Buta  
Anthony Stanley*

REPORT # 64  
April 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 Working Papers 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 Report #64**  
**European Centre for Minority Issues (ECMI)**  
**Director: Dr. Tove H. Malloy**  
**© ECMI 2014**



# ECMI Workshop on Definition of “Minority”

Flensburg, Germany  
26-27 September 2013

*The European Centre for Minority Issues (ECMI) convened a workshop at its Head Quarters in Flensburg, Germany in September 2013 to discuss new approaches to defining a minority. The workshop brought together leading scholars and practitioners working in the area of minority rights in Europe in order to critically assess current constructions of minority identity within relevant multilateral contexts (including the OSCE, the Council of Europe, the European Union and the United Nations). The Workshop sought to launch a new research project within the ECMI aiming to revisit the issue of a definition of “minority.” The workshop involved an interdisciplinary team of researchers (such as specialists in politics, international relations, law, and sociology) who came together to discuss how to proceed from a shared understanding of definitions as contingent fixations of meaning within a particular law and policy domain in this case national minority rights in Europe. Participants came together on the assumption that no definition can ensure that a particular meaning will prevail forever, and that there are always alternative meanings which may challenge and transform the prevailing definition. Specific objectives of the Workshop was to identify the key signifiers currently being used by international, non-governmental, state and social actors as they engage with multilateral institutions in order to fix the meaning of minority identity in Europe. By examining the competing ascriptions of meaning now in use with respect to “minority,” the Workshop participants sought to identify the struggles taking place over that meaning and to assess the possibilities for change.*

**Tove H. Malloy, Oana Buta & Anthony Stanley, April 2014**

**ECMI Report # 64**

## **I. INTRODUCTION**

The ECMI Director **Tove Malloy** opened the Workshop and introduced the aim of the meeting addressing a definition of “minority.” With the social changes that have occurred at the end of the twentieth century and the debates academics have encountered related to the issue of definition

of “minority,” the time has come to question these previous frameworks of what a definition of “minority” signifies. Therefore, the objectives of the Workshop were among other to come up with a set of theories and sub-topics on the theme of definition, which could be used to challenge definitions and their traditional roles. Next, **Jennifer Jackson-Preece** outlined how over the last

few decades, minority rights have become a widely recognized component of international and domestic rights regimes. There are many general forms and content of minority rights which include a growing list of authoritative texts, including but not excluding Article 27 of the International Covenant on Civil and Political Rights (ICCPR), the UN Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities (hereafter the Declaration), the Framework Convention for the Protection of National Minorities (FCNM), the European Charter for Regional and Minority Languages (ECRML), various thematic recommendations and guidelines issued by the High Commissioner on National Minorities (HCNM), and the Advisory Committee on the FCNM (ACFC). But there is no article or paragraph within them to which one can point with regard to a definition of “minority.”

## II. PRACTICES OF INTERNATIONAL ORGANIZATIONS

After the initial introductions, four participants gave presentations on the role of, and how international organizations thus far have implemented versions of legislation relating to a definition of “minority.” There are differences and challenges which have been encountered to this date. There is no unison approach relating to a definition that is currently implemented throughout all international organizations.

**Alexandra Xanthaki** explained four United Nations (UN) practices relating to minorities, including the Human Rights Commission, Human Rights Committee, the UN Forum on Minority Issues and the Independent Expert. All four are eager to stress the idea of self-identification, so

whether a group is a minority or not is not a state decision; this is a group decision of self-identification. One can see this in the inclusive approach UN working groups take on minorities, for example; the Tatars first identified themselves as indigenous but then decided that they did not fit well into the indigenous agenda and thereafter identified themselves with the UN Working Group of Minorities. This is a very important issue for the UN. The UN asserts that the recognition on minorities is a choice that does not belong to the states involved. With Article 27 of the ICCPR and the Human Rights Committee, the UN have been eager to assert that there is a distinction between indigenous and minorities; however, there has been some confusion as indigenous peoples come under the protection of minorities. This is because the UN wishes to make clear that indigenous peoples are protected. With the case of Peru under Article 27, the rights of peasants and nomads are also included within this discussion.

The most controversial issue is related to “new” minorities. The Human Rights Committee has dismissed the view that the scope of application of minority rights protection should be restricted to those who have long lasting ties with the state. The UN Commentary to the UN Declaration recognizes that these rights apply to both “old” and “new” minorities. However, the UN has not decided whether refugees are included as minorities; this relates to citizenship. There are some EU states that include immigrants without citizenship under Article 27. But as is the case with Germany, there has been a reluctance to discuss “new” minorities who arrived after 1945. In Germany’s most recent Report, there were discussions about “new” minorities, but migrant workers were not dealt with under Article 27. In the 2009 Finnish Report to the Human Rights

Committee, the Finnish government referred to recent immigrants as minorities but the Human Rights Committee is reluctant to accept this definition by Finland. Hungary was criticized by the Human Rights Committee with regard to its requirement that in order to acquire minority protection a group has to have residence at least for one century on Hungarian territory. Religious minorities have been overlooked by the Committee and this relates to the tension that exists in the mandate with regards to racial discrimination or religious discrimination.

In relation to the Human Rights Committee's stance on discrimination, the UN have started the beginnings of a new discussion about migrants and peasants in correlation with the guidelines of the Secretary General on racial discrimination of national minorities which accept peasants belonging to other groups that are regularly in non dominant position and thus merit the UN's attention from the perspective of non discrimination and the effect of peasant's human rights. **Xanthaki** was not sure, however, if the UN went so far as to include peasants as a minority. Thus, when it comes to "new" minorities, there are conflicting messages. There is a tentative attempt to include "new" minorities, and there is an independent forum for discussion to accept these new approaches.

**Charlotte Altenhoner-Dion** explained the practice of the ACFC. She noted that the ACFC considers its opinions soft jurisprudence. The ACFC has discussed from the beginning, the question of the FCNM's scope of application not least in the light of restrictive declarations received from member states at the time of ratification. The ACFC agreed to follow a pragmatic approach. Declarations were going to be interpreted as implementation measures and their impact on national minorities should therefore be monitored by

the ACFC according to FCNM. In its findings on Article 3 of the FCNM, the ACFC has routinely held that member states had a margin of appreciation but there should be no arbitrary distinctions made between different groups. This was considered the case, however, where domestic legislations established hierarchies between various groups such as between "national minorities" and "ethno-linguistic minorities". In all cases, the ACFC declared that there needs to be close consultation with representatives of the concerned groups. Over time, the ACFC has paid less attention to historic presence and referred more to the established will and self-identification of such groups, such as regarding the Poles in Germany and Austria. Overall, the ACFC calls for consistent and inclusive applications without undue differentiation between groups. A dialogue was entered into which could be applied in individual cases within the frameworks of FCNM. In countries where there was no desire to get recognition, the ACFC suggested to inform those groups about possible protection and see if they wanted, or did not want such protection (i.e. Spain/non-Roma). The general line is therefore one of a flexible, inclusive approach. In 2001, the ACFC responded to the Parliamentary Assembly of the Council of Europe, by stating that the FCNM is not an all or nothing document; if one group is not covered by one article, it may be by another, if it is not covered by all the articles, it may be covered by at least one. The approach of article-by-article is therefore the appropriate one for the FCNM. FCNM does not dictate how it goes in specific situations; rather it must take into consideration demographic and other contextual changes. The developments and debates regarding the definition of minority registered in some EU countries, in the European Parliament or the Parliamentary Assembly of the Council of Europe prove

that this topic is important and present both at the state level, but also in the international and academic arena.

Citizenship criteria have also been used by some member states; however, the ACFC held that citizenship cannot be a criterion of exclusion. Territorial limitation criteria are used by quite a number of member states; in this regard the ACFC held that this cannot be used to disproportionately exclude certain groups. ACFC Opinions overall suggest flexibility, dialogue and consultations. In a few Opinions, the ACFC has gone further, as in the case of Spain where a strong recommendation was made to consider Berbers as national minorities.

Article 3 includes the essential right to free self identification. In some countries (including Germany, Azerbaijan and Ukraine) the ethnic background of minorities was registered without consent of the concerned groups. This is not compatible with Article 3. According to the ACFC, no one can be forced to identify with a certain group.

Another topic related to Article 3 is the “Census Exercise”, which is very important for minority rights because the size of minority populations plays an important role for the implementation of some articles (language and education rights in particular). Censuses should not only be used for measuring the number, but must have flexibility and also take into consideration demographic changes and possible fears of misuse of data, resulting in the refusal to indicate ethnic origin. The issue of personal identity and respect for identity also suggests that language doesn't identify a person once and for all, as people can change location and switch between different languages, therefore showing multiple identities. In some cases, the AC has held that minority right may also apply to persons belonging to the majority who find themselves in a minority situation. In

Norway, with relation to the Sami, the ACFC suggested that the protection of the FCNM and specific mechanisms for the protection of indigenous groups were not mutually exclusive. With regard to indigenous peoples, the ACFC has also suggested that under Article 5 preservation of their identity should also accommodate more modern livelihoods relating to new techniques of fishing for example and how these practices could be protected.

The ACFC's focus on diversity has taken a broader approach under Article 6 which is applicable to all persons on the territory. It protects all persons from ethnically-based hostility and discrimination which has included the discussion and condemnation of segregation in countries where Roma, for instance, are not considered a national minority.

**Kristin Henrard** spoke next of the perspective of the EU with focus on EU internal policy. The limit of the EU's explicit competences in regard to minority policies is that there is no explicit minority policy for internal purposes. The mainstreaming of minority consciousness has differentiated in different areas. The Lisbon Treaty's confirmation of respect for the rights of persons belonging to minorities is of important value for the EU.

**Henrard** looked into the articles of different policy areas; non-discrimination, social inclusion, integration policies, human rights issues and cultural diversity. She noticed the striking differences in regard to the position towards new migrant minorities; from the socio-economic sphere on one hand and the cultural sphere on the other hand. There is distinction between EU citizen migrants and third country nationals that migrate. The distinction between the social and cultural sphere shows that the EU is still a formal socio-economic integration process. The EU is still trying to create a socio-economic integration primarily. The

initial focus is to bring all member states together and forge some kind of EU identity. Therefore, distinctions between EU citizenship, migrants and third country minorities are still the linchpin of the European integration process. Within different policy areas; the socio economic sphere, non discrimination policies and social inclusion reports have shown to be elaborate policies, and have been quite inclusive of migrant minorities. If one looks at documents, such as the social inclusion reports, the European employment strategy, employment guidelines and other issues, such as the social impact of extended assessment of human rights screening of the participation process, one will see migrants or minorities are used just with one economic goal. In the socio-economic sphere, new migrants and minorities are included with no consistent approach. They are treated the same way.

With regard to culture and identity, there is a more hesitant approach. EU competences in terms of culture are limited. Only lately has there been a more inclusive approach towards minorities and indigenous peoples. EU citizens are offered some protection in terms of cultural identity, social rights against anti-discrimination from the perspective of cultural protection. Third Country Nationals have been exclusively excluded from cultural protection. There has also been modest financial support for minority languages. Regarding foreign languages, they are not confined just to the EU official languages, they can be indigenous or minority languages. This is an inclusive approach; however, these languages are not promoted. On a passive level, they are allowed, but not promoted. In terms of culture, the EU's agenda is to adopt third country nationals/migrants. There is recognition of the idea that the culture of immigrants is also part of European culture. There is gradual opening towards the idea

that European identity includes migrant identity, but this is at a passive level. For instance, in the culture program for 2007-2013, there is barely a mention of the word migrant and there is no active promotion.

With religion however, there is huge hesitation to interfere with the choices that states have made in terms of Church-State relations. Anything related to Church-State relations is considered separate from the EU level. The State has a broad power of appreciation; as there will be no European consensus. Whatever competence the EU has in terms of religion does not touch the sovereign capacity of the State to decide State-Church relations. It is considered that these links correlate with national identity and feelings. Therefore, this is a state responsibility.

**Alexander Osipov** described how according to the 1990 Copenhagen document of the CSCE – there is no definition of a minority; there is however an approach of what a minority could be. He explained that Article 32 states 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 a choice”. Under Article 32; the ethnic, cultural, linguistic identity of a minority is related to a collective identity dimension of a minority. The HCNM established in 1992 follows a pragmatic approach. With the famous saying of the first HCNM, Max van der Stoep, “I know a minority when I see one” was meant that to belong to a minority is a legal choice and no restrictions should be imposed, there must be an objective criteria behind the choice. There must be some expressed desire/attitude of a collective to be a recognized minority.

The HCNM's approach is based on four items:

1. Preservation,
2. No restrictions imposed on personal choice,
3. Objective criteria, and
4. Collective criteria

The HCNM's mandate has now incorporated guidelines which delineate certain approaches, such as good guidelines to theoretical approaches. They also included pragmatic considerations to which member states should adhere. In some national contexts, groups which were defined by religion, ethnic or in cultural terms were included by the HCNM under the guidelines provided by his mandate. This could be a good starting point for the theoretic approach to defining a minority.

The political approach was a demand by many governments to avoid any clear restriction regarding belonging to a certain group, reservation of rights were not to take into account some questionable situations, as was the case with the Russian minority in Estonia. The HCNM was not pleased with these classifications and he expressed his concern in a letter addressed to the foreign minister of Estonia. The foreign minister argued that the approach was in line with national and international norms, and with the approach taken by most of the countries in Europe. A definition of "minority" has traditionally included citizenship, permanent residence and issues relating to linguistic, cultural and ethnic traits. The adoption of a definition of a "minority" is therefore a restrictive definition, meaning: inclusive citizenship, permanent residence and language/ethnic traits which adhere to the majority.

The HCNM's recommendations called for provisions, regarding the definitional approach of what is a minority,

which should be in line with the Lund Recommendation (Lund Recommendations on Effective Participation of National Minorities in Public Life, September 1999) and the Ljubljana Guidelines on Integration of Diverse Societies. Both stress the importance of individual choice of affiliation to a national minority. The Lund Recommendations underlined that individuals define themselves in multiple and changing ways. The Ljubljana guidelines state that identities and affiliations are multiple and multilayered, they are changing and they must exercise the free choice of affiliation and no imposition must be put therein, but the free choice must be based on an objective criteria. Free legal choice must also be based on some objective criteria.

### III. INTRODUCTION TO THE DISCUSSION

On the basis of the introductions to the practices of international organizations, **Jackson-Preece** presented some of the ideas included in the discussion paper circulated prior to the workshop. She noticed that the issue of a definition of "minority" is important because it speaks about the problems that minorities confront, in a sense this is what defines them and what it means to be a minority. She explained that the presence or the absence of a definition is fundamental to the understanding of "minority" and any attempt trying to create circumstances through which we have greater participation, equality and recognition of a minority rights agenda seems to require the understanding and familiarity with these debates. **Jackson-Preece** asked the key question, why do we do it now? It is because of this accumulated practice invites scholars to think again how the meaning has developed as well as how circumstances have changed. It is added

value if a cross institutional framework is introduced, as most of the analysis that has been done until now has had a single institutional framework approach.

The process approach might be an interesting approach, as it pre-requires thinking efforts to be directed towards definition. The process could lead to moving closer to a lived reality, this would then enable engagement with the changeability of the subject and also with the multiplicity of user's who engaged within, or might wish to engage further. The main points of contestation of how things are moving on with different prospective events happening within the CoE, UN or EU need to be regarded and addressed. **Jackson-Preece** further asked the open ended question as to whether these are distinct, parallel or divergent discourses. Social realities have forced discussions to invite a debate or reflect how measures have taken place and to think through the identity of minority rights holders in an attempt to virtualise many situations, including the sorts of dynamics which exist. Participants were asked to think about how new angles could be identified to think differently about how these issues could be tackled in a way that challenges these notions.

#### **IV. GETTING BEYOND THE DETERMINISTIC APPROACH**

The main part of the workshop addressed the problems of a deterministic approach to defining minorities. **Malloy** suggested that power struggles influence how we think of defining a minority, highlighting the need to go beyond existing practices; this involves the process approach. **Altenhoner-Dion** brought to the discussion, the issue of application of the word "definition" and mentioned that in order to have a different perspective one objective should be to go back to the origins, including the rights of

minorities, mainly because of the dominance issue, the non-dominant role and their power relations. A definition is needed from a legal point of view, for putting into practice and institutionalizing certain rights. Giving the example of Finland and its law on national minorities which allowed new Russians to be covered by it, **Altenhoner-Dion** concludes that practice can help at the broadening of the definition and has an impact on it. **Zagar** argued that a definition has always been the result of a process and it is needed because of two main reasons, to control and to apply the research. **Jackson-Preece** suggested replacing "definition" with identification, but **Zagar** argued that they are not limited, but are in fact part of identification. **Zagar** suggested a plural view of "definition" as different definitions bring about different dimensions of social phenomena that are complex.

**Tomasz Kamusella** suggested that the discussion has to focus on a meta-discourse method, as until now, the discussion has been looking towards definitions and definitions have been essentializing; looking at a group of entities which can be constructed as minorities and trying to define what they are. Historical perspectives of the definition of minorities or the rise of minorities as an element of political life effect of the creation of a territorial nation state. **Malloy** and **Jackson-Preece** agreed that deconstructing European discourses is needed. In order to work towards this collective aim **Malloy** recommended conceptualization rather than definition.

**Xanthaki** argued that in the process of defining it should not be forgotten, that the state is also involved. **Altenhoner-Dion** agreed to this point by arguing that the state has an important role in the definition "because it's the state, which is the duty bearer, the state institutionalizes minority rights. If the state excludes certain groups,

the ACFC then among others, goes and tries to push and keep the dialogue within the limits of its project. What is important is that the views of the minority are taken into account.” Moreover, the kin-state’s role should not be under-estimated. **Ewa Chylinski** continued the argument noting that the role of the state is crucially not by the fact that it ratifies, but because the decisions made by the state trickle down to the decisions made by local authorities and those are on the “front line” of minority cases. In relation to minority rights states make controversial decisions. Rarely are decisions made in dialogue and often they are taken from the perspective of what some institutions would like to hear, not what those affected, really need.

**Timo Koivurova** raised the question what it is meant by “minorities as social categories of personal identity?” He stated that this is fundamentally disempowering. **Jackson- Preece** explained that the term identity is most of the time understood as something positive, but by minority as a sub-type of identity may become problematic because this positive dynamic is obstructive in some way. Instead of being always positive, it can be negative. It has the problem that ascription is attached to it by “the other”, rather than the individual, no matter if the individual wants it or recognizes this. She explained that a statement is a fixed description of an object whereas she would like to differentiate what has previously been done in terms of efforts relating to a definition. Definitions can also be processes in that sense. In all institutions one will find processes and it would be more interesting to delve into the multiplicity around the use of the term “minority.” A process based approach would therefore try to engage all these different practices, which currently influence our understanding of who is or is not a minority.

**Zagar** suggested that in order to “go beyond,” the approach should follow international actors, and one should consider “process and power relations,” in addition to the discussion of institutional and state definitions, but also in relation to the definitions of the minority themselves. **Kamusella** suggested taking into consideration “objective” and “subjective” criteria, such as “being a member of a minority,” noting that “they need to be unpacked.” **Malloy** agreed with this objective and subjective approach which could make policy makers aware, that assumptions are not always cast in concrete. **Malloy** questioned how one can connect the whole idea of process and the social media revolution phenomena. Policy makers should be made aware that there is a need to re-focus their attentions. **Chylinski** suggested that there is a need to convince states to re-focus and to address issues that have been forthcoming for so many years. There is the need for preparing for these groundbreaking changes.

## V. BRINGING IN A SOCIAL CONSTRUCTIVIST APPROACH

Reiterating arguments from the previous discussion, **Jackson-Preece** suggested prioritizing the “sense of beyond.” She mentioned that solely thinking about the definition has not really gone forward and that this thinking has invaded particular institutions, located in a particular period of time. It would be the perfect time to go beyond. Process and identification might be more fruitful than understanding of a definition, as it is static. The process should engage with a multiplicity of actors and it should be more aware of power dynamics. Process is open to interpretation and reinterpretation from a multidisciplinary point of view. Further, she stated that that

the discussion was leading the workshop towards at least five areas of study:

1. Theory and approaches
2. Actors (international organizations, state and local authorities, social actors),
3. Rights: religion, culture,
4. Concepts or categories of identity
5. Beyond the status quo

There are a growing number of academic publications and comments by experts of international organizations about the importance of a definition of “minority”, but there is still no definition. In order to re-define the minority, **Jackson-Preece** suggested that one should reflect on the politics of definition; on inclusion and exclusion. **Jutila** considered that one should have, as a starting point, the meaning of a definition. He thought that it should first connect the discussion with the view on nations and identity and the shift that has occurred since the 70s in social sciences. This shift might be useful for the understanding of current definitions. He also considered the importance of international organizations’ approaches towards defining.

### *Concepts and categories of identity*

One of the first questions was how to connect concepts with the definition of minority? **Jackson-Preece** explained by giving religion as an example and discussing how the identity of religious rights holders was understood. She questioned whether it should be thought of as historic religious groups or as religion and migrants or as constitutional settlements regarding Church and State. She said it can be viewed as a particular category of rights and urged participants to think about the identity of the minority rights holders within the group. **Malloy** asked how one could categorize this

and if one should talk exclusively about groups that hold rights. She argued that the power play in these groups is important and it should not be ignored, together with time and space.

**Xanthaki** asked whether the issue of new minorities and/or migrants should not be included in the area of study of concepts. She explained that states traditionally have focused on the time that minority groups have been living in the state in order to accept them. The international community has been focusing on time issues, so it was this discussion of whether minorities should be there for one, two or more generations in order to get recognition under international law. There are new groups that also claim minority status, but due to the burden of time they are not accepted. This issue is important for the re-definition of the word “minority” and a way to look forward may be to not look at the criteria of time, but at the criteria of intent to stay in the country and close links with the country. This might also include migrants in the definition.

**Nic Craith** stated that language should also be considered within concepts and categories of identity. She said if the status quo of language is viewed as power constructing in its implication for minorities, it can be noticed that if what one speaks is regarded as language, then one is entitled to seek certain rights, as a language minority. If the language is not recognized, then people are put into a situation where they have to fight to try to get the status of language recognized, after which they can get the status of language minority group. **Jackson-Preece** found this important as, if the majority concept is shifting, then the concept of minority is shifting, and the question raised was: is the understanding of language within the majority words?

An important element for the redefinition of the term minority is represented by the Roma, as the group

cannot be placed in one area of study, because it is compatible with many categories: national minority, ethnic minority etc. **Henrard** suggested that Roma itself should be considered a special area of study, while **Jutila** considered that it should be a study from a social point of view- how Roma defines Roma. Trying to answer the question, **Chylinski** suggested that one should focus, on one hand, on the Roma as a generic group, and on the other, on Romani institutions. **Kamusella** instead argued that there is no such thing as Romani institutions, as most of them are not financed by Romani.

### **Actors**

**Jackson-Preece** proposed that international organizations, state, and social actors are also influential when it comes to the definition of minority. **Chylinski** stated that local authorities should be also included among actors, as they represent an important part of the institution of the state. She further explained that states ratified international legislation, and then it became automatically responsible for identifying who is a minority, and to whom rights should be given. She questioned how that trickled down to local authorities (either there is a confrontation, or the state decides if this is a jurisdiction of the local authorities, or not). She further elaborated and questioned whether and to what extent the state is forced to adopt a definition at all levels of governance. A question was raised as to how definitions might have an influence in the inclusion/exclusion and how they are dealt with at other levels of governance.

**Zagar** contested this classification and said that it all depended on the way in which institutions were defined. If the classification referred only to international organizations, then local authorities should be included. However, if the reference was to institutions at a state level, then they were

already included. According to him, the state level should not be mentioned as it is already an institution. He suggests that under this area there should be international organizations, state, and local authorities. **Jackson-Preece** added that, for her, social actors are also important. Using this term “social actors” she wanted to differentiate between traditional and international institutions; central, local, and social institutions (groups themselves, NGOs, and minority actors). Therefore, by using the term social actors, she meant the minorities themselves, how minorities understand themselves, and how they move to include or exclude. She also noted that that the discourse and the debate is not simply owned by the traditional actors, but also by the social actors, those who have been doing good things for themselves but who should not be understood exclusively as the good guys, they can be also the antagonistic forces, depending on whether they include or exclude. **Zagar** reminded participants about the issue of minority institutions. He stated that the issue is far more complex, as there are minorities policies within which minority groups co-exist.

**Kamusella** highlighted how, when new minorities are not represented by the state, they take actions into their own hands and establish new websites, for spreading information and news in their own languages. **Malloy** agreed, noticing that the pressing issues of modern society have made her aware of the fact that minorities are under constant redefinition in their lives. She further suggested that the modernization of minority existence is incredibly rapid and it is important that this is captured. She emphasized that it was important to see what minorities are experiencing today because of this incredible changing world. One should not be traditional but push barriers. For instance, “what has social media do to with identities and to the existence of minorities?”

How do minorities react?” There is a need to acknowledge that there is technology, global threats, and economic crisis. Once there is awareness about these facts it should be questioned: “How do minorities internalize these phenomenon, and in case they do, how do they redefine themselves? How media and technology influence the definition or self-definition, how minorities use this and how this produces opportunities of definition?” **Jutila** highlighted how nationalism also has a new outlet within this framework and how this “New Media” correlates to notions of an imagined community within these technological frameworks. He also brought the argument forward of how this new media could define or shape new nationalism and identities.

Of special concern are the elites, according to **Osipov**. He drew attention to the minority protection as part of the human rights discourse as a tool of nation building. It is about the creation of communities, by putting certain implications and meanings on minorities. Discourse does not generate a problem, unless it is implemented in practice.

### *Beyond the status quo*

The discussion in this area of study evolved around the idea that a re-definition of “minority” means something new, as **Jackson-Preece** put it. **Zagar** said the objective is to develop the concept of diversity; the inclusion of new minorities/migrants, their issue of protection is an important topic as previous and current arrangements have been hierarchical and symmetrical. He explained that “all international documents define the individual rights of actors. Historically minority acts were in the context of communal acts. This has been forgotten since the end of World War Two. We, therefore, need to think of certain criteria that may have not been thought of before”.

There is no unanimous idea of what these criteria are. He suggested that, as a point of departure, one should take Article 27 of ICCPR and FCNM as the minimum level of standards at the global and European level. As a definition one should take Capotorti’s definition together with other definitions that are available. One should look to the approach of these definitions and identify the weak points. He believes one can identify a framework that could bring together, the concepts of managing diversity, positive action, traditional approaches, and negative and positive protection of minorities. Rather than just writing down new definition, this shows how the existing definitions can be complemented and improved.

## **VI. FINAL REMARKS AND CONCLUSION**

**Jackson-Preece** stressed the importance of making an original contribution and suggested a revision of the areas of study. **Zagar** opened the discussion and noted that it is trapped in the same trap as in the past. **Altenhoner-Dion** agreed, and argued that one cannot neglect the overall question “why do we need a definition” and “why it has been contested?” She noticed that there was a lack of overarching themes. She thought a definition should combine the individual person, the collective/the group and society, as identity is important for all these elements, but the question is which way and why? She gave the example of religion, it is an important thing in society but it can also be religion as individual identification. **Henrard** did not agree but insisted that it was not religion, but religious minorities, and then one should look at why it would be important to identify religious minorities. Usually there are two options: to have protection against discrimination, but also to have special rights. In the case of

discrimination there is no need of a special definition of minorities, this becomes important only when there are specific rights belonging to minorities, then it gives access to rights.

**Malloy** reminded the group of the processes of self-identifying with certain markers and how minorities are identified by the majority. One should not focus on whether minorities want access to certain rights; rather one should deconstruct the process that goes on in daily life. One should examine the persons acting within or out of the group and how those actors, events, processes influence how the individual identifies with the group or not, the dynamism of what goes on in a society, and why this is changing in the 21st Century. Focus on new aspects of diversity and how certain power-structures influence that way in which the group is moulded together is important.

**Xanthaki** also mentioned the influence that the state might have, directly or indirectly, that groups are defined as minorities. **Malloy** further elaborated, stating that, in fact, the formation of identity is also influenced by how minorities see that state informing them as a group. As an example, she mentioned the situation of the Danish people in Schleswig Holstein in 2010, when there were funding cuts allowed for Danish pupils, and the minorities were forced to go out of their area and go to the kin state. By cutting the funds they were thrown into the arms of the kin state, the power holder, which negotiated with the central government of the home government. These kinds of dynamics force minorities to identify with the power holder.

**Jackson-Preece** stressed that what is needed to deal with the changing reality is to reflect on the ways and why it is changing. She considered it useful to articulate the possible holes and gaps. **Altenhoener-Dion** agreed and said that best idea would be to

question: is it language or culture that is necessary for defining? Is it necessary for the individual, for the community, for the society? She considered that these were the questions that might help the differentiation between individual, collective, society, and state, which represented an interesting angle of looking at the definition. This would help to structure it and give it a premise which then could help drawing something new.

**Malloy** pointed out that social change is one of the biggest challenges they had as researchers, and laws needed to readjust to the social changes of the world. Since the definition provided by Capotorti, many events have occurred, such as the fall of the Berlin Wall, the opening of the eastern Europe, 9/11, the internet, revolutions, super highways, economic flights. She underlined the need to move on; scholars had to refer to Capotorti because there is nothing else. She recalled the need, not only to have a new definition, but also to revise the approach and think at all the events that have changed our field of study.

**Kamusella** suggested having a meta-discourse approach and wondered how different concepts work differently in different languages. While **Nic Craith** doubted the application of the idea for the concept of minority, **Zagar** and **Henrard** agreed. While **Xanthaki** argued that different states use different terms differently and this is the reason why states do not give protection to some minorities. They argue that they are not minorities, they are communities, then they are not communities, but they are ethnicities, and so on. **Malloy** agreed and gave, as an example, the meaning of indigenous people in Western Europe and the rest of the Europe. **Koivurova** further argued that the definition has caused problems and created confusion as to who are indigenous, for instance in Finnish Lapland, requiring us to revisit our definitional approaches.

**Jackson-Preece** proposed a list of the words that are useful and representative when thinking about a redefinition of “minority”:

- status quo,
- individual,
- collective,
- society,
- objective,
- subjective,
- institution/states/international organizations,
- process,
- power relations/powerlessness,
- inclusion/exclusion,
- epistemic community,
- changes,
- experts/expertocracy,
- changes(s) (technological and social),
- elites,
- new/old minorities,
- migration,
- mobility,
- pluralism,
- contestation, and
- education

**Xanthaki** wondered whether a definition, if it is intended to link practice with theory, should also help policy makers. **Jackson-Preece** said that a definition should push practice in a certain direction, to be more inclusive, but at the same time also answer the big theoretical questions. The participants agreed that this area needs further research and that it is important to establish a network of experts who can share their ideas; the importance of deconstructing the new processes and challenges in order to be able to come up with a new definition was also underlined.

## *PARTICIPANTS*

- **Charlotte Altenhoner-Dion:** Administrator, Secretariat of the Framework Convention for the Protection of National Minorities
- **Ewa Chylinski:** Acting Director for the ECMI Caucasus Regional Office
- **Prof. Máiréad Nic Craith:** Chair in European Culture and Heritage
- **Prof. Dr. Kristin Henrard:** Professor Minority Protection at the Erasmus University Of Rotterdam/Associate Professor Constitutional Law
- **Dr. Matti Jutila:** Government of Finland/David and Nancy Speer visiting assistant professor of Finnish Studies, Political Science, University of Minnesota
- **Dr. Tomasz Kamusella:** Lecturer in the School of History at the University of St Andrews
- **Prof. Timo Koivurova:** Director of the Northern Institute for Environmental and Minority Law, Arctic Centre/University of Lapland
- **Dr. Tove Malloy:** Political theorist and ECMI Director
- **Dr. Alexander Osipov:** Senior Researcher at European Centre for Minority Issues, Flensburg
- **Dr. Jennifer Jackson-Preece:** Senior Lecturer at the London School of Economics and Political Science
- **Dr. Alexandra Xanthaki:** Reader in Law, Brunel University
- **Prof. Dr. Mitja Zagar:** Senior Research Fellow and Director of the Institute for Ethnic Studies and at the Faculty of Social Sciences

#### ABOUT THE AUTHOR

##### **Tove H. Malloy**

ECMI Director

\*Contact: [malloy@ecmi.de](mailto:malloy@ecmi.de)

##### **Oana Buta**

Project Assistant

\*Contact: [musteata@ecmi.de](mailto:musteata@ecmi.de)

##### **Anthony Stanley**

Former ECMI Intern

#### 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](mailto:info@ecmi.de) \* Internet: <http://www.ecmi.de>