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The Case of the Civil Service in Eastern Europe**

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**ECMI Issue Brief #17**

**February 2008**

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**ECMI Brief #17**  
**European Centre for Minority Issues (ECMI)**  
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## **Ethnic Data Collection: The Case of the Civil Service in Eastern Europe**

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### **Introduction**

Representative bureaucracies are an important indicator of ethnically inclusive societies. Minority group support for the policies and institutions of a state is often directly linked to the extent to which these groups are being represented, not only in politics but also in the state apparatus. A bureaucracy that reflects the cultural and ethnic diversity of the population is also likely to be more responsive to the needs and aspirations of minority groups in multiethnic societies. A substantial body of academic research in this area suggests that there is significant empirical support for this responsiveness thesis.<sup>1</sup>

The normative appeal of the representative bureaucracy concept has yet to be translated across most of Eastern Europe into specific policies designed to make the actual practice of civil service recruitment and promotion more open to minorities. In fact, what is often found by ECMI and other organizations working on various aspects of minority participation in public life is a lack of even basic systematic data on levels of minority inclusion. The lack of this type of data is often attributed to national legal provisions regulating personal data collection. In particular, ECMI research on minorities in public bureaucracy was hindered by the existence of numerous limitations on possibilities for collecting primary data or on obtaining access to the data already available. A similar problem has arisen in relation to ECMI research on socioeconomic exclusion of minorities, for which it has been difficult to obtain minority-related data on employment, education and health services.<sup>2</sup>

This paper begins by outlining the importance of minority civil service inclusion in the general discussion of minority participation in public life, so as to demonstrate the salience of the issue in recent academic and policy discussions of minority issues in the European context. It then turns to an analysis of how legal norms and policies in the area of bureaucratic recruitment and promotion affect the availability of data on minority representation in civil service. Finally, this paper will discuss the options and strategies available to the researcher in situations of limited availability/poor quality of official data. It briefly examines the utility of approaches such as the analysis of employment rosters using algorithms based on last names, snowball sampling techniques, interviewing, and requesting data from ethnic minority organizations.

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<sup>1</sup> J.A. Dolan and D.H. Rosenbloom (eds.), *Representative Bureaucracy: Classic Readings and Continuing Controversies* (New York: M.E. Sharpe, 2003).

<sup>2</sup> See ECMI Statement to Seminar on the Issue of Ethnic Data Collection, organized by the European Commission against Racism and Intolerance (ECRI) Strasbourg, 17-18 February 2005.

## Goals of minority inclusion and representative bureaucracy

The building and maintaining of ethnically inclusive societies is a common political goal within Europe. As such, differences between governments and civil actors persist primarily in their divergent understandings of the nature of inclusion and strategies for achieving it.<sup>3</sup> A good indicator of commonality of goals is the increased effort on the part of international and intergovernmental organizations to address minority issue through various legal and policy instruments. The most prominent European actors in this field are the Organization for Security and Cooperation in Europe (OSCE) and the Council of Europe (CE). Both have contributed significantly to international standard setting on minority representation and inclusion. The Council of Europe *Framework Convention for the Protection of National Minorities* that came into force in 1998 marked a milestone in terms of standard setting on minority inclusion.<sup>4</sup> One of the most recent results of the efforts of the OSCE has been the *Lund Recommendations on the Effective Participation of National Minorities in Public Life*<sup>5</sup>. The Lund Recommendations were prepared at the request of the OSCE High Commissioner on National Minorities (HCNM) by an international group of distinguished scholars in 1999 to promote a variety of options that states could employ to enhance the participation of minorities in public life.

One problem with international legal agreements and policy recommendations is the very general nature of many of their prescriptions. Few of their provisions contain specific commitments or detailed measures for enhancing or monitoring the levels of minority inclusion. This is due in part to the nature of international agreements. International policy regimes depend on the will of the participants in order to reach a common decision, and non-specific provisions are sometimes the only acceptable common denominator. The generality of provisions in policy recommendation documents, which often only provide a list of options available to policy makers, is partly due to the awareness that the country-specific context can profoundly influence the effectiveness of the proposed measures. However, generality is also due to a lack of knowledge with regard to both the actual levels of minority inclusion in the different fields of public life and on the efficacy of proposed measures.<sup>6</sup>

The inclusion and representation of ethnic minorities in state bureaucracies is among the least studied aspects of minority participation in public life. Today there is a noticeable

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<sup>3</sup> As an introduction: A. Eide, *Protection of Minorities*, United Nations Doc E/CN.4/Sub.2/1993/34.

<sup>4</sup> A recent overview of different legal mechanisms for minority protection can be found in P. Thornberry and M.A.M. Estébanez, *Minority Rights in Europe* (Strasbourg: Council of Europe Publishing, 2004). A detailed analysis of the Framework Convention can be found in M. Weller, *The Rights of Minorities: A Commentary on the European Framework Convention for the Protection of National Minorities* (Oxford: Oxford University Press, 2005).

<sup>5</sup> See *Lund Recommendations on the Effective Participation of National Minorities in Public Life*, at [http://www.osce.org/documents/hcnm/1999/09/2698\\_en.pdf](http://www.osce.org/documents/hcnm/1999/09/2698_en.pdf) (18 April 2007).

<sup>6</sup> A more detailed set of recommendations is contained in the OSCE-sponsored *Guidelines to Assist National Minority Participation in the Electoral Process* (2001). However, this document only addresses electoral aspects of minority participation.

shortage of comprehensive and reliable surveys on the levels of representation of minorities in civil service within most East European countries.<sup>7</sup> The Advisory Committee on the Framework Convention for the Protection of National Minorities acknowledges this absence of reliable statistical data:

The Advisory Committee encourages States to set their own targets to achieve greater participation of minorities and to monitor the impact of specific measures devoted to increasing enrolment in public employment programmes. Yet, a recurrent shortcoming in this area is the lack of quality statistical data. In many cases, there may be some general data available but it is not detailed enough, neither broken down by location nor gender. State Reports on the implementation of the FCNM usually reflect this state of affairs by furnishing only limited statistical data, sometimes too segmented to get an overall picture of the situation.<sup>8</sup>

The same applies to policy recommendations and standard setting in the field. Compared to standards set by the United States and Great Britain—which have a long-established tradition of both implementation of diversity enhancement policies and of their evaluation—most states of Europe, and especially those of Eastern Europe, lack systematic knowledge of the conditions of minorities within state bureaucracies.<sup>9</sup> Although the extensive Lund recommendations advise governments to install “measures for minority participation in the civil service” and the Framework Convention of the Council of Europe calls for affirmative action<sup>10</sup>, neither elaborates further.

Considering the importance of the topic, this is remarkable. A bureaucracy that represents the ethnic and cultural heterogeneity of the population is vital for a truly inclusive society.<sup>11</sup> Inclusive societies cannot prosper under the administration of an exclusive

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<sup>7</sup> Regarding Eastern Europe, the following are two of the few examples of research on inclusion in the civil service sector: F. Bieber, *Post-War Bosnia* (New York: Palgrave Macmillan, 2006); and P. Kopecký, “Political Parties and the State in Post-Communist Europe”, 22(3) *The Journal of Communist Studies and Transition Politics* (2006), 251-273.

<sup>8</sup> Cited in S. Marsal, “A Short Overview of the Monitoring of the Advisory Committee on the Framework Convention for the Protection on National Minorities under Article 15”. Paper presented at the Conference on *Minority Participation at Regional, National and Local Level—Striking The Balance* Skopje, Friedrich-Ebert-Stiftung, 6 December 2006.

<sup>9</sup> See J.E. Kellough, “Affirmative Action in Government Employment”, 523(1) *The ANNALS of the American Academy of Political and Social Science* (1992), 117-130; and K.C. Naff and J.E. Kellough, “Ensuring Employment Equity: Are Federal Diversity Programs Making a Difference?”, 26(12) *International Journal of Public Administration* (2003), 1307-1336.

<sup>10</sup> See *Framework Convention for the Protection of National Minorities*, Article 4, paragraphs 2 and 3, at <http://conventions.coe.int/treaty/en/Treaties/Html/157.htm> (18 April 2007).

<sup>11</sup> See S.C. Selden, J.L. Brudney and J.E. Kellough, “Bureaucracy as a Representative Institution: Toward a Reconciliation of Bureaucratic Government and Democratic Theory”, 42 *American Journal of Political Science* (1998), 717-744; and J.E. Sowa and S.C. Selden, “Administrative Discretion and Active Representation: An Expansion of the Theory of Representative Bureaucracy”, 63 *Public Administration Review* (2003), 700-710.

bureaucracy.<sup>12</sup> Ethnically diverse societies are built upon a multitude of different cultural and social groups, each of these demanding special measures for the maintenance and improvement of their well-being. Even if these measures are agreed upon within the political system of a multiethnic state, they still have to be installed by the state bureaucracy; if this is culturally and socially exclusive, it is not likely to engage and distribute its funds according to demand and equity. Recent research by the UNRISD indicates that the public sector may be rendered ineffective or illegitimate if it fails to develop mechanisms to regulate difference, inequality and competition.<sup>13</sup> Fair competition between social and ethnic groups is a basic democratic standard.<sup>14</sup> A recent study published by the OSCE emphasizes the leading position of the state in this field:

As a role model, governments offer leadership and demonstrate good practice to society as a whole. Within public bodies there is considerable scope for the employment of positive action methods. Governments can show the way by actively implementing anti-discrimination and equal opportunity measures in its own employment and procurement practices.<sup>15</sup>

While the initial period of post-communist transition was dominated by concerns about avoiding or managing open interethnic confrontation, the more or less successful transformation of the majority of violent conflicts in the region has cleared a path for dealing with issues other than immediate conflict management policies. However, awareness of the importance of ensuring the inclusiveness of public bureaucracy in Eastern Europe has yet to be transformed into a set of comprehensive and enforceable measures. Addressing social exclusion and discrimination through public policy in this and other areas is an important mechanism for ensuring long-term stability in the region.

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<sup>12</sup> The Advisory Committee on the Framework Convention for the Protection of National Minorities (ACFC) has stressed the importance of an inclusive public administration. See the comments of the ACFC in its opinions on Serbia and Montenegro, adopted on 27 November 2003 (para. 103); Bosnia and Herzegovina, adopted on 27 May 2004 (para. 111); Ireland, adopted on 22 May 2003, (para. 94, with regard to the Traveller Community); Italy, adopted on 14 September 2001, (para. 66 with regard to some minorities, especially the Slovenes); Moldova (2<sup>nd</sup> Opinion) adopted on 9 December 2004, (para. 142); and Romania (2<sup>nd</sup> Opinion), adopted on 24 November 2005, (para. 187).

<sup>13</sup> Y. Bangura (ed.) *Ethnic Inequalities and Public Sector Governance* (New York: Palgrave Macmillan, 2006), at 1.

<sup>14</sup> See M. Cohen and R.T. Golembiewski, *Public Personnel Update* (New York: Marcel Dekker Ltd., 1984).

<sup>15</sup> Migration Policy Group (ed.), *Policies on Integration and Diversity in Some OSCE Participating States: An Exploratory Study Prepared by the Migration Policy Group* (The Hague: OSCE, 2006), at 31, at [http://www.osce.org/documents/hcnm/2006/07/19961\\_en.pdf](http://www.osce.org/documents/hcnm/2006/07/19961_en.pdf) (18 April 2007).

## Legal framework for minority data collection

Provisions for collecting different types of data related to minorities can differ quite substantially between individual countries. Two types of legal regulations are of immediate importance. The first is a general legal framework of personal data collection. Constitutional provisions, data protection laws, and other general pieces of legislation regulating data collection are of relevance here. The second is civil service rules and regulations for recruitment, selection, promotion, pay, and retention.

A recent volume, which conceptualizes the state of ethnic data collection in Eastern Europe as a missing resource in the fight against discrimination, provides a comparative assessment of general legal frameworks of personal data collection in a number of Eastern European countries.<sup>16</sup> It concludes that major differences are to be found, not in the wording of provisions, but in the practical management of general rules prescribed by documents such as international conventions on data protection, constitutional norms, citizens' registration acts, statistics, and minority laws.<sup>17</sup>

With respect to civil service-related legislation, the existence or absence of the following regulations can be telling: equal employment opportunity programmes (EEO), diversity management programmes, specific legal provisions for minority enhancement as parts of general staffing policies, and general affirmative action programs. Legal regulations and policies in transitional societies can vary quite substantially. An overview of minority inclusion provisions since the early 1990s would be needed before a researcher could begin to develop a comprehensive picture of efforts to address the situation of minorities in the civil service. Classifying the available arrangements into groups of positive/negative, comprehensive policies/single specialized orders, specialized EEO/general diversity enhancement provisions might facilitate the analysis.<sup>18</sup> The provisions identified could then be classified further according to whether they singled out particularly disadvantaged groups, whether they introduced specific benchmarks, and/or whether they targeted specific civil service sectors.

Information on legal norms and provisions, which is collected systematically and in accordance with explicit rules, can serve as a basis for cross-country comparisons of the legal frameworks for minority inclusion. Assigning codes and developing indices on the basis of scoring various aspects of such provisions—for example, noting how detailed and inclusive the policies were, what resources were committed to their implementation, and so on— would make such comparison more rigorous and analytically powerful.

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<sup>16</sup> A. Krizsan (ed.), *Ethnic Monitoring and Data Protection: The European Context* (Budapest: Central European University Press and INDOK, 2001).

<sup>17</sup> I. Szekely, "Counting or Numbering? Comparative Observations and Conclusions Regarding the Availability of Race and Ethnic Data in Some European Countries", in A. Krizsan (ed.), *Ethnic Monitoring and Data Protection: The European Context* (Budapest: Central European University Press and INDOK, 2001).

<sup>18</sup> On researching affirmative action and bureaucracies see Dolan and Rosenbloom, *Representative Bureaucracy*, *supra* n. 1.

Content analysis of norms and regulations adopted by the civil service is also an important preliminary step in any efforts aimed at the collection of empirical data on levels of minority inclusion in public bureaucracy. Such an analysis would provide the researcher with important clues as to the type of data that might be available from government offices upon request, whether certain data was available from the civil service but inaccessible to outside researchers due to regulatory constraints, and whether the collection of some data might be illegal due to concerns and regulations relating to personal data safety. Although restrictions on the collection of ethnic and racial data could be substantial, none of these restrictions—to the best of our knowledge—would prohibit the collection of data for scientific purposes.<sup>19</sup>

### **Empirical strategies for data collection**

As indicated by the aforementioned statement by the Advisory Committee on the Framework Convention for the Protection of National Minorities and similar accounts, the quality of official data on different forms of public employment for minorities is rather poor. This is due in large part to the lack of government efforts to collect and disseminate information of this kind in a systematic fashion. However, the lack of readily available information does not mean that empirical patterns and trends on minority inclusion in civil service cannot be estimated.

Social science research on minorities in Eastern Europe pays significant attention to the problems of the adequacy of ethnic data. The focus of social science concerns, however, has been on the quality of census and general population survey data.<sup>20</sup> This section discusses some of potentially useful techniques for collecting data and conducting research on minority inclusion in civil service. The collection or generation of data on minority in civil service can take different forms. Here we discuss the following strategies: the analysis of employment rosters using algorithm based on last names, survey techniques, and the use of ethnic minority organizations as a source of expert information on minority inclusion.

***The quantitative analysis of employment rosters.*** The acquisition of information relating to the share of civil service positions occupied by minorities is one way to set about forming an understanding of the situation of minorities in public bureaucracy. A simple yet normatively appealing way to begin analyzing minority inclusion in the civil service is to look at *proportionality of representation*. The concept of so-called ‘descriptive’ or ‘passive’ representation is based on the normative assumption that proportional

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<sup>19</sup> For example, Article 9, paragraph 3, of the *Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data* of the Council of Europe explicitly permits such collection for scientific reasons. One example of the national implementation of such a provision can be found in the *Bulgarian Law on the Protection of Personal Data*, which in general prohibits the gathering of data based on ethnicity, but allows various exceptions, one of which is the collection for scientific reasons. See article 5, paragraph 4, of the *Zakon Za Zashchita Na Lichnite Dannii*, at <http://lex.bg/laws/ldoc.php?IDNA=2135426048> (18 April 2007).

<sup>20</sup> D. Laitin and D. Posner, “The Implications of Constructivism for Constructing Ethnic Fractionalization Indices”, 12(1) *APSA-CP Newsletter* (2001); W. Haug “Ethnic, Religious and Language Groups: Towards a Set of Rules for Data Collection and Statistical Analysis”, 69(2) *International Statistical Review*, 303–311.

representation in the civil service should be representative of the broader trends of society as a whole.

Data on the ethnic composition of the civil service is useful for the construction of a number of indices. One of these indices is the *ethnic proportionality index*, which is calculated by dividing the share of an ethnic group in a given civil service category by that group's population share.<sup>21</sup> An index of 1.00 indicates perfect proportionality, a score of less than 1.00 signals under-representation, and a score of more than 1.00 indicates over-representation. Another index that could be developed is the *ethnic integration index*, which is based on the variation of ethnicity among the civil servants in the selected ministries and agencies and throughout the different service categories. This index calculates the ratio between an observed number of ethnic differences in a group of civil servants and the maximum possible differences in that group. The index ranges between 0.00 and 1.00. If the ratio is 0.00, the index shows the complete absence of variation, for example, a group consisting of only one ethnicity. The score of 1.00 indicates the highest extent of variation. This index highlights the differences between the ministries and agencies and their service categories. Another possibility is the *stratification index*, calculated through the ratio of minority representation at higher level positions and the minority representation at lower level positions.<sup>22</sup>

It may also be possible to include the promotion, discharge and voluntary resignation ratios of minorities, as compared to the majority. However, the task of collecting such data might prove even more demanding.<sup>23</sup> Overall, data on ethnic composition provides us with an opportunity to use a number of different analytical tools with which to research minority inclusion issues. Each of the indices mentioned above is subject to its own limitations with regard to its ability to reveal the true nature of the inequalities in public bureaucracies, yet they can provide important information on minority under-representation in state administration, career options for minority members, and variations in opportunity structures over time.<sup>24</sup>

Due to the current state of ethnic data collection by government agencies, the availability of ethnic composition data for individual government agencies or public bureaucracy in general could become a major issue. While each government ministry or agency has its employment rosters, ethnicity might not be included amongst the variables. Using last name-based algorithms for estimating the ethnicity of employees, or conducting a sample

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<sup>21</sup> As critics note, the index of proportionality simplifies the problem of measuring the concept of proportionality. It ignores a number of relevant factors, including the geographic distribution of both social groups and government offices, prestige and status associated with working in public bureaucracies, and so on. On this, see D. Nachmias and D.H. Rosenbloom, "Measuring Bureaucratic Representation and Integration", 33(6) *Public Administration Review* (1973), 590-597.

<sup>22</sup> The discussion of these indices is available in *ibid*; and Y. Bangura (ed.), *Ethnic Inequalities and Public Sector Governance* (New York: Palgrave Macmillan, 2006).

<sup>23</sup> See indices used in: J.E. Kellough, "Affirmative Action in Government Employment". 523 *The ANNALS of the American Academy of Political and Social Science* (1992), 117-130. Naff and Kellough use public administration data for the US states. K.C. Naff and J.E. Kellough, "Ensuring Employment Equity: Are Federal Diversity Programs Making a Difference?" 26(12) *International Journal of Public Administration* (2003), 1307-1336.

<sup>24</sup> See criticism in Naff and Kellough, "Ensuring Employment Equity", *supra* n. 23.

survey of civil servants might be alternatives available to a researcher interested in the proportionality of ethnic representation in civil service.

Last name-based algorithms for estimating ethnicity have been widely used in health and population studies.<sup>25</sup> While acknowledging the limitations of this approach, most of the studies cited also highlighted its numerous advantages. There is no reason why a similar technique should not be applied to civil service employment rosters in situations where the last names serve as markers of ethnicity. However, the validity and reliability of such an approach can vary quite substantially between countries and ethnic groups due to the amount of discriminating information contained in the names. Thus, coding the last names could be more useful for estimating a share of Hungarians in the Ministry of Education in Romania than a share of Russians in the same ministry in Ukraine.

**Survey analysis.** Conducting a representative survey of the staff of civil service agencies could be another strategy for estimating proportionality. While costs associated with the conduct of a survey are much more substantial, this research instrument permits the realization of many other research goals beyond the estimation of the proportionality of representation. Information received in the course of the survey can provide answers to questions related to the patterns of bias and discrimination in hiring or opportunities for upward mobility and career advancement for minority employees within the civil service sector.

A number of issues have to be addressed by the researcher in preparing the survey. These issues concern the choice of respondents (civil servants in general, heads of personnel in government agencies, representatives of minority organizations), the sampling techniques (random, snowball, and so on), and the design of questionnaires. Each of these requires a large number of decisions. For example, if the targeted respondent group is constituted of civil servants, then the architect of the survey needs to decide whether respondents should be selected from across the various government agencies or from a limited set of government agencies that are of particular interest to minority groups (these might include ministries of education, culture, interior, regional development, finance, and a specialized government agency on minority issues).

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<sup>25</sup> O. Razum, H. Zeeb and S. Akgun “How Useful is a Name-based Algorithm in Health Research among Turkish Migrants in Germany?” 6(8) *Tropical Medicine and International Health* (2001), 654-661; S. Harding, H. Dews and S.L. Simpson, “The Potential to Identify South Asians Using a Computerised Algorithm to Classify Names.” 97 *Population Trends* (1999), 46-49; J.O. Harland, M. White, R.S. Bhopal *et al.*, “Identifying Chinese Populations in the UK for Epidemiological Research: Experience of a Name Analysis of the FHS Register”, 111 *Public Health* (1997), 331-337; H.P. Hazuda, P.J. Comeaux, M.P. Stern *et al.*, “A Comparison of Three Indicators for Identifying Mexican-Americans in Epidemiologic Research”, 123 *American Journal of Epidemiology* (1986), 96-112; B. Huey-Huey Hage, R.G. Oliver, J.W. Powles and M.L. Wahlqvist, “Telephone Directory Listings of Presumptive Chinese Surnames: An Appropriate Sampling Frame for a Dispersed Population with Characteristic Surnames”, 1 *Epidemiology* (1990), 405-408; A. Martineau and M. White, “What's Not in a Name? The Accuracy of Using Names to Ascribe Religious and Geographical Origin in a British Population”, 52 *Journal of Epidemiology and Community Health* (1998), 336-337; and A. Nicoll, K. Bassett and S.J. Ulijaszek, “What's in a Name? Accuracy of Using Surnames and Forenames in Ascribing Asian Ethnic Identity in English Populations”, 40 *Journal of Epidemiology and Community Health* (1986), 364-368.

Recent advances in cognitive interviewing techniques impose demanding requirements on the questionnaire design<sup>26</sup>, especially if such a questionnaire is intended to capture the existence of informal norms and rules affecting the situation of minorities in the civil service.<sup>27</sup> As such, the questionnaire development process might involve interviews with civil service experts and focus group sessions with potential respondents to identify and develop necessary concepts.

***Minority organizations as a source of expert information.*** Even in the event of the absence of readily available government data or the lack of resources to conduct an extensive survey work, the researcher is still left with other possibilities for obtaining some kind of empirical information that could be of use in improving general understanding of the situation of minority groups in the civil service and in articulating research questions and hypotheses.

The lack of information in any research or policy development situation usually forces researchers and policy-makers to turn to experts as a source, not only of advice, but also of information. Ethnic minority organizations and political parties can be understood as one kind of expert on minority issues. The levels of knowledge within these organizations relating to the situation of minorities in different civil services might vary greatly, but their expertise in this respect warrants exploration. Such exploration could take different forms: conducting interviews with minority organization leaders, studying publications of minority organizations, and drafting requests for information about the presence of members of a particular minority community in high-ranking civil service positions across government agencies.

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<sup>26</sup> G.B. Willis, *Cognitive Interviewing: A Tool for Improving Questionnaire Design* (London: Sage Publications, 2005).

<sup>27</sup> The examples of civil service questionnaires can be found in M.M. Hale and M.F. Branch, "Policy Preferences on Workplace Reform", in M.E. Guy (ed.), *Women and Men of the States: Public Administrators at the State Level (Bureaucracies, Public Administration, and Public Policy)* (New York: M.E. Sharpe, 1992); and W.L. Warner, P.P. van Riper, N.H. Martin and O.F. Collins, *The American Federal Executive* (New Haven: Yale University Press, 1963).

