

## Book Review

Sia Spiliopoulou-Åkermark (editor-in-chief), Leena Huss, Stefan Oeter and Alastair Walker, eds.

*International Obligations and National Debates:*

*Minorities around the Baltic Sea*

The Åland Islands Peace Institute: Mariehamn/Åland 2006, 600 pp.

€30.00, ISBN 952-5265-18-8

The book, a collection of essays, is devoted to all Baltic Sea countries: Denmark, Sweden, Finland, Russia, Estonia, Latvia, Lithuania, Poland and Germany. Also Norway as a Nordic country is included.

The title of this very challenging, interesting and voluminous book covers well its content.

The book discusses *first* the two major legal documents from the Council of Europe, the 1995 Framework Convention for the Protection of National Minorities (hereinafter “the Framework Convention”) and the 1992 European Charter for Regional or Minority Languages and their impact on these countries. At the time of the writing of this book, all countries (except Latvia) had ratified the Framework Convention; but in 2006, Latvia has also ratified the Framework Convention.

*Secondly*, the title of the book also refers to national *debates* around minority issues, and also this part is very instructive. The book has an interdisciplinary approach which is important, since the question of minority has both objective and subjective denotations; attitudes are important. Thus, the Framework Convention is related to (and contrasted with) a variety of legal orders and legal cultures. As a Framework Convention, it allows for various forms of interpretations and implementations. The Convention contains no definition of the notion of “national minority”, since it was impossible to arrive at a definition capable of mustering general support of all member states of the Council of Europe.

The book is quite topical, since questions of minorities and ethnicity have lately been placed on the political agenda. There are two main tendencies. The fall of communism meant that national tensions became more frequent in, for example, the former Soviet Union or on the Balkans. Legal means are essential to moderate these conflicts. The other tendency is an increased sensibility for minority issues in general in Europe and in other parts of the world. The two mentioned conventions are signs of this development.

The definition of a minority is important from a legal point of view. If a certain group enjoys the status of being recognized as a minority with certain privileges, it will mean that the group will have a different position than ethnic, linguistic etc. groups without such minority status. Minority legislation (in contrast to anti-discriminatory legislation) normally puts a financial burden on the state. The Roma group in most countries is now seen as a minority; but the weak organizational structure and a certain lack of social cohesion make the group dependent on state support to be seen as a group and not as scattered individuals.

One misses a critical discussion of the minority issue in general in relation to its legal effects. What is a minority from a legal or constitutional sense? Is it a group right or an individual right (or both)?

Sia Spiliopoulou Åkermark writes that minorities cannot be defined easily; the borders are shifting. She believes in a constructivist theory; one should not fall into an essentialist trap as the Russian contributors write. These good arguments, however, do not take away the problem, since minority protection demands financial support. Why should this group get funding but not another? A special issue is also the problem in regard to language. What is the difference between a minority language and a dialect? Now, Low German language is regulated in the Constitution of the Land Schleswig-Holstein but in a different part that regulates the other minority languages, Frisian and Danish. In Norway and Sweden, special historical Finnish groups are supposed to have their own languages different from the Finnish language.

What forms should a minority policy have? Should it demand that a minority language(s) are shown on traffic signs or in the name of cities and municipalities? Should minority schools be financed through public funding? Should they give instruction in *other subjects in* the minority language or just give lessons in this language? Should there be minority representatives in the parliaments making the electoral threshold lower for minority groups as it is the case with the Germans in present-day Poland?

The obvious answer to these questions was: conditions differ to such a large degree that general questions would be less relevant; but it could be useful if one made a systematic exposition of various means of protecting minorities.

The book is published by the Ålands Islands Peace Institute which reminds us that the Åland island in the Baltic Sea itself is a minority territory in the sense that it has been granted autonomy. The Swedish-speaking population wanted the island to belong to Sweden in a referendum in 1920, but the League of Nations wanted otherwise. Åland should still be a part of Finland, but a law was adopted which gave far-reaching autonomy to

the island. Finland also made Swedish an official language together with Finnish as early as 1902 “under the cautious eye of Russia” as Sia Spiliopoulou Åkermark writes. Although the Swedish-speaking inhabitants in Finland only comprise 6% of the population, they are still seen as being part of the official structure of the state, not like the Samis and Romas who are smaller minorities which also get state support.

In 1920, the borders between Denmark and Germany were determined by plebiscites which left a German minority in Denmark and a Danish minority in Germany (Schleswig).

Today, in Denmark, the Germans are the only officially recognized minority group. According to the expert committee of the Council of Europe, Denmark has done well in establishing minority schools, day-care facilities and some kind of consultative structure.

It is impossible to comment in detail on all these essays in this very rich book. All the contributions deserve praise, but a more detailed discussion can only treat a few contributions. The book begins with an excellent introduction on the main issues to be analyzed and discussed (Sia Spiliopoulou Åkermark). She points out that the discussed conventions could be seen as instruments for international socialization.

Some contributions are more descriptive, whereas other essays also raise more general questions. These descriptive essays make the volume close to a handbook. The Danish (Jørgen Kühl and Margrethe Pedersen) contributions are historically and legally oriented and discuss only the Germans in Denmark. The German contribution (Stefan Oeter and Alaistair Walker) also discusses other minorities than Danes in Germany (Sorbs, Frisians, Roma). Also the Finnish and Norwegian (Kristian Myntti and Pirkko Nuolijärvi; and Einar Niemi, respectively) chapters clearly describe the legal development and present-day debates. The Swedish contribution (Sia Spiliopoulou Åkermark and Leena Huss) is more oriented to the present discussion and gives an insight into the complexities of the problem.

Of special interest are the contributions to this volume from the post-communist countries. The excellent contributions from Estonia and Latvia (Vadim Poleshchuk and Jelena Helemäe; and Brigita Zepa and Arturs Kučš, respectively) clearly show the political and legal conflicts around the Russian-speaking minorities in these countries. The decisive legal concept here is the citizen. The Framework Convention allows primarily that only citizens could be granted minority status. Besides, the two conventions also concern *historical* minorities and not immigrants. For this reason, the Latvian resistance to the Convention was not rational but was played out on the symbolic plane, since non-citizens could be formally excluded. On

the other hand, the monitoring instruments of the Council of Europe would also look into the situation of non-citizens.

The contributions on Estonia and Latvia show that the issue of stateless persons in those countries has not been solved and is sometimes aggravated by social conflicts.

Russia made a reservation in relation to the definition of a minority when it signed the Framework Convention and said that people who were arbitrarily deprived of their citizenship and who have permanent residence permit in a given country, should be seen as a minority according to the spirit of the Convention.

The most interesting and elegantly written contribution concerns the Russian Federation (Vladimir Malkhov and Alexander Osipov). Russia has ratified the conventions and a great number of legislative acts concerning minorities but more as a matter of symbolic gestures. The authors argue that the Russian legislative technique in these matters can be compared with "the principle of a narrowing funnel. In other words, advancement from general legislative declarations to their enforcement via a succession of bylaws implies gradual reduction of the state's guarantees and obligations." The relevant legislation is not implemented and, thus, not costly. The legal protection of minorities is adopted in a country where the law itself is far from being respected automatically.

Finally, the interesting contributions from Poland and Lithuania (Grzegorz Janusz; Natalija Kasatkina, Giedrius Kadziauskas and Kristine Sliavaite, respectively) make it clear that those countries have developed a progressive strategy for protection of minorities which can be a model for other states.

To conclude, the volume gives an excellent insight in minority problems and minority legislation around the Baltic Sea, but the discussion on the legal effects on various definitions of minorities and various forms of rights could have gone a bit further. This comment notwithstanding, the book should be read by all interested in minority problems and their legislative solutions.

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