



POLICY BRIEF /2018

# Minority rights: Ambiguities and dilemmas

Human rights apply equally to all human beings. Sometimes there is a need for special awareness and protection of the rights of those in a minority situation due to for instance their religion, belief, language or cultural background. The UN human rights regime provides mechanisms for such protection.

A human rights-based approach to minority protection does not exclude, but can rather be seen as one aspect of human rights-based efforts to ensure inclusive citizenship. Nonetheless, “minority status” is a contested term.

This brief provides an introduction to the human rights basis of minority rights which goes in tandem with an inclusive citizenship approach. It also explores some dilemmas related to identity-based human rights protection, and examines why some people in a minority situation contest the term minority’ despite the human rights protection they might claim on the basis of this status.

The analysis presented in this brief reflects discussions in workshops and conferences attended by researchers, representatives of ethnic and religious groups and other civil society experts in the MENA region, Southeast Asia and the Balkans within the framework of the Minority Network during 2018.

## MINORITY RIGHTS

A basic human rights provision explicitly addressing the protection of persons in a minority situation is found in the UN International Convention on Civil and Political Rights (ICCPR), Article 27:

*“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 language.”*

## The concept of minority rights in international law

The concept of minority rights in international human rights law may help explain why minority status and minority rights are seen by some as achievements, while others reject the concept or the term. Some human rights provide a particular basis for protection of those in a minority situation although they do not refer directly to minority status. Minority rights may be seen as collective dimensions of the individual rights enshrined in the United Nations human rights conventions.

### The non-discrimination clause

- The right not to be discriminated against because of factors that are constitutive for a person's identity, such as race, ethnicity, religion, sex/gender etc. (ICCPR, Art. 2)
- The right to equality before the law, without discrimination (ICCPR, Art. 26)

### Individual rights from which all people, including minorities, should benefit and which sometimes can only be exercised meaningfully in community with others, including:

- Freedom of religion or belief, such as the right to worship together with others when that is part of a faith (ICCPR, Art. 18)
- The right to take part in cultural life, including one's own traditions (ICESC)
- The right of children to learn and use the language of their particular group in addition to learning the official language (CRC)

International human rights also emphasise the duty of states to ensure the protection of indigenous people's rights, which are defined as the rights of those ethnic groups that were first on a specific territory of what is now (part of) a nation state.

### Indigenous people's rights include

- A right to continue using the particular land of the group, the right to learn and use the language of the group, and the right to (a certain degree of) self-determination within that territory (ILO)

Religious, national or ethnic status also defines the protected groups of the UN Genocide Convention of 1948. Both persons belonging to such groups and (other) human rights defenders therefore appeal to the minority status as a basis for protection. At the same time, being a minority may lead to stigmatisation or a feeling of inferior status as second-class citizens. This is why some groups reject notions such as national minority. Some minorities reject the term because they interpret it as a rejection of their status as groups with long historical roots in a country or in a specific territory.

## Minority: a contextual concept

Majority–minority relations are contextual, and there are different dimensions of majority–minority status: including numerical, and being in a dominant/non-dominant political position. We will look at both dimensions from a conceptual perspective and at examples from different contexts.

Being a minority in one context normally means that you are a majority in another. Ethnic Serbs, for instance, now represent a numerical minority in Croatia but a majority in Serbia. Kurds represent a minority in Iraq but a majority in one of its regions. Buddhists represent a majority in Myanmar but a minority in some areas of the same country. Thus, the definition may vary between countries and geographical areas and levels of governance (local, regional, national). Moreover, different aspects of your identity may put you in a minority or majority situation, depending on context. As an Arab Sunni, you belong to the ethnic majority but to a religious minority at the national level in Iraq. Similarly, you may be a Buddhist but not a Bamar, and hence belong to an ethnic minority but a religious majority in Myanmar.

Definitions of 'minority' may be based not only on numbers; they can also be based on a sense of access to and distance from political power, or on the specific vulnerability of a group. The Alawites in Syria are numerically a minority but since the end of the colonial period their representatives have had the political power. Black and coloured South Africans were a majority but were oppressed under the apartheid regime. Other identity categories, such as gender or sexual orientation may in certain contexts place people in a vulnerable position due to prejudices or power-structures. This brief refers to "minority" and "majority" as numerical concepts unless otherwise stated.

## Ambiguity

Although international human rights law provides protection against discrimination of persons belonging to ethnic, religious or other minorities, the term 'minority' is perceived by some to signalise that you are not a true citizen or that you have weak ties to the country or territory in which you live. Groups with long ties to a territory, such as Christians in Lebanon or other countries in the Middle East, Yazidis in Iraq, and many of the non-bamar ethnic groups of Myanmar sometimes therefore reject being labelled as minorities, even though numerically that is the case.

Groups that make up a numeric minority at the national level but a majority in their region sometimes also reject the term for similar reasons, such as the Kurds in the Iraqi Kurdish region or the Shan in the Shan state in Myanmar, where regional borders partly follow each group's historical territory. Accepting the term 'minority' is seen to undermine their claims for self-determination. Nevertheless, some may make use of the term in efforts to achieve national recognition and rights, or instead claim status as indigenous in order to claim a right to territorial self-determination. Some prefer the more neutral term "different components of society" or "ethnic nationalities".

Sometimes more than one ethnic and/or religious group has a particular status in the political system, often established as the result of a peace agreement to ensure stability between the dominant parties in a conflict. The right to higher political posts and representation of Shia, Sunni and Kurds in the Iraqi constitution of 2005 is one such example, where the post of president, prime minister and speaker of parliament are shared between the three groups. The representation of Sunni, Shia and Christians in the Lebanese political system is another, assigning the three highest political positions to each of the groups and also providing quotas for each group in parliament. The Dayton Agreement of 1995, which implied a shared presidency for Bosnians, Serbs and Croats and which also assigned places to the three ethno-religious groups in the upper house of parliament of Bosnia-Herzegovina, is further example of such multi-ethnic and/or multi-religious power-sharing where none of the dominant groups normally would accept the status as “minority”.

The ambiguity often associated with the status as a minority is closely related to its political, social and legal implications. The status as a minority is sometimes ascribed by national authorities against a group’s will and self-perception. This status may in turn be used as a basis for discrimination, deprivation of rights or even exclusion. The Iranian clerical (Shia) regime’s definition of an opposing political (Shia) group as a ‘religious minority’ that threatens the correct theology of the state, and thus challenges the “minority” group’s self-perception as Shia, is one example.

## Minority and citizen

Ambiguity about the status as a minority is related not least to the complex relationships in many countries between citizenship and minority/majority status. Claims for identity-based rights may be at odds with inclusive and equal citizenship, if some ethnic and/or religious groups get a particular status or representation at the national or regional level.

Equal participation and inclusion are also challenged by undue emphasis on the culture and language of the majority as a basis for citizenship. Based on comparative analysis of countries emphasising ethnicity and/or religion as a basis for inclusion or exclusion in public life, I have developed an analytical framework for such grading of status which stands as a contrast to an inclusive citizenship approach.<sup>1</sup> It expresses how certain regimes differentiate status based on ethnic and/or religious identity, where the national religious and ethnic majority – or the one with the dominant political position (if a numerical minority is in power) – is used as the standard and the point of reference:

	Dominant ethnicity	Dominant religion
Level 1	+	+
Level 2 a	+	-
Level 2 b	-	+
Level 3	-	-

Figure: «Citizen status ladder» (Plesner 2018)<sup>2</sup>

Sometimes this “citizen status ladder” is expressed in the legal or political system, for example, as a basis for formal citizenship status, electoral rights and other forms of political participation or representation rights. But it may also be expressed by more structural arrangements, such as systems of inclusion and exclusion in the school system, discriminatory laws in various fields (family law, labour law etc.), statements made in public discourse, manifestations at national celebrations, or by national symbols. As with all analytical models, one would seldom find examples corresponding exactly to the model as a whole. Still, there are country examples that demonstrate its applicability to tendencies in different contexts.

The highest rank or status (1) is assigned to those from both the ethnic majority and the religious majority. Examples may be the Bamar, the majority ethnic group, in Myanmar, who also have a Buddhist identity; Arab Shia at the national level in Iraq; and Kurdish Sunni living in the area controlled by the Kurdish Regional Government (KRG) in Iraq. Persons sharing either the ethnic or religious identity of the majority are ranked second (2). Persons who are Arab but not Shia Muslims in Iraq or who are Sunni but not Kurds in KRG is one example. Being Bamar but not Buddhist (2a) or Buddhist but not Bamar (2b) in Myanmar is another. Persons sharing neither the majority ethnicity nor the majority religion fall into the third category (3); for example, Arab Shia in KRG; Sunni Kurds in Baghdad; and Kachin Christians in Myanmar.

One may argue that in some context there is also a ‘pariah level’ (4) where certain groups are placed, and who sometimes are also deprived of citizenship. Muslims in general and the Rohingya in Myanmar in particular could both be seen to fit this pariah category, though only the Rohingya are deprived of formal citizenship rights. The Yazidi under the ISIL regime, defined as a particular target for genocide due to their religious identity, also would fit with this category.

Such distinctions of status based on ethnic and/or religious identity are incompatible with universal human rights, for instance the right to non-discrimination, as outlined in the introduction to this brief. It is also incompatible with the notion of inclusive citizenship, in any reasonable sense of the term.

## Dilemmas

One can ask if it is possible to conceive of a national identity that is not somehow grounded in a majority or in a dominant group’s culture, language and history. One may also question whether such a majoritarian national identity is likely to create loyalty to the state in diverse societies.

Religious or ethnocentric nationalism is on the rise in several countries, often at the expense of the inclusion of minorities. While a “Christian heritage” is referred to as a basis for discrimination against or exclusion of minorities in some European countries, such as Hungary, Hindu-based nationalism is on the rise in India, and Buddhist nationalism

in Myanmar. The definition of a national identity based on both the majority religion and the ethnic majority, as for Bamar Buddhists in Myanmar, may be perceived as a particular challenge to a national identity that includes minorities, and for inclusion of persons with various ethnic and religious identities in public and political life.

Claims for ethnic self-determination may also pose challenges to inclusion and to participation by persons belonging to groups that are in a minority situation at the local level. These challenges are manifested in, for instance, the education system. Different models for bilingual and mother-tongue education show the possibilities for adapting to local needs within the current legal and political frameworks, but also the challenges posed by the lack of political will to support such initiatives and involve ethnic groups in educational reform processes.<sup>3</sup>

There are several dilemmas related to identity-based rights. One example is the concern for the “minorities within the minorities” when ethnic groups that are a minority at the national level claim (some degree of) self-determination at the regional or local level. Here, too, comparative studies may prove useful in national discussions. The situation for Kurds in Iraq and for Yazidis and other minorities in the Kurdish region of Iraq is one example. Other examples are the situation in Myanmar for the Christian majority in Kachin and for the Buddhist and other religious as well as ethnic minorities in Kachin. This local or regional diversity within “ethnically” defined regions must be addressed when developing models of language education and other parts of school curricula, along with power-sharing and cooperation between national and regional levels.

Another dilemma concerns the tensions that may occur between the rights of individuals in a certain ethnic or religious groups and the collective rights of that group.<sup>4</sup> This is manifested when, for instance, women are not

represented in the leadership of a religious or ethnic group or otherwise do not enjoy equal rights. This is closely connected to the general discourse on the relationship between individual and collective human rights. Instead of contrasting individual rights against group rights, it could be argued that there are collective dimensions to most human rights. For example, rights to free speech, assembly, freedom of religion or belief and language often is realized collectively.

Last but not least, there is a conceptual challenge in defining minorities, since all groups have internal diversity and undergo change over time. An attempt to define the characteristics of a certain minority group risks rejecting the plurality of opinions and practices within that group and how it has evolved and continues to evolve. The danger of essentialising goes hand in hand with the danger of stereotyping; for example, by presenting simplified versions of a certain group’s identity in school education, textbooks, etc.

## Notes

<sup>1</sup> Citizenship is here a term applied in a broader sense than the strict legal and political sense, referring to formal citizenship rights, see for instance: Stokke, Kristian (2017). *Politics of Citizenship: Towards an Analytical Framework*, In Eric Hiariej & Kristian Stokke (ed.), *Politics of Citizenship in Indonesia*. And Butenschön, Nils A. Uri Davis, Manuell Hassassian (eds.), *Citizenship and the State in the Middle East. Approaches and Applications*. New York: Syracuse University Press 2000

<sup>2</sup> See Plesner’s chapter in the report “National identity, citizenship and minority rights in South-East Asia”, Ingvill T. Plesner and Camilla Buzzi (eds), Norwegian Center for Holocaust and Minority Studies, Oslo 2018

<sup>3</sup> See Minority Network Annual report /2018

<sup>4</sup> Will Kymlicka, *Multicultural Citizenship: A Liberal Theory of Minority Rights*, Oxford: Oxford University Press, 1995). See also: Susan Okin, introduction to *Is Multiculturalism bad for women?* Cohen and Matthew Howard (eds), Princeton University Press, 1999

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## The project

The Minority Network is a network of researchers and practitioners addressing conditions for human rights-based protection and inclusive citizenship across ethnic and religious divides in conflict-ridden societies. The network is coordinated at the Norwegian Center for Holocaust and Minority Studies (HL-SENTERET).

More information: [www.minoritynetwork.no](http://www.minoritynetwork.no)

**The Norwegian Center for Holocaust and Minority Studies** is a research, education and documentation center in Oslo focusing on the Holocaust, other genocides and the situation of minorities in contemporary societies.



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