



The

Continuing the miracle into South Africa's second decade

FW de Klerk Foundation

The International Protection Of Minority Rights

**A special report complied for the
F W de Klerk Foundation**

By Deon Geldenhuys and Johann Rossouw

August 2001

Deon Geldenhuys is a professor in the Department of Politics and Governance of the Rand Afrikaans University and Johann Rossouw is preparing for doctoral studies in philosophy at the University of Lyon.

Foreword

In the post cold war era community conflicts have emerged as the single most serious threat to peace. Of the 27 notable conflicts that afflicted the world last year, 25 were within countries between communities – and not between countries. Most of these conflicts, in turn, had their roots in the inability of ethnic, cultural or religious communities to coexist peacefully. Tensions between communities within the same societies most often arise when such communities believe that their core interests are being threatened or that their basic rights are being ignored. Such tensions are aggravated when the communities in question are also minorities, and are, or feel, powerless to secure what they perceive to be their reasonable interests through democratic means.

It is in these circumstances that international recognition of community – or minority – rights becomes most relevant to the resolution of conflicts and the promotion of peace. Because this is so and because the promotion of peace in multi-communal societies is the central objective of the F W de Klerk Foundation, we decided to commission a study of the latest developments relating to the international protection of minority rights. We asked Deon Geldenhuys, the Professor of Politics and Governance at the Rand Afrikaans University and Johann Rossouw, who is preparing for doctoral studies at the University of Lyons, to assist us in this regard. The result is this report which we hope will contribute to the debate on inter-community relations both within and outside South Africa. The views expressed in the report are those of the authors and are not necessarily shared by the Foundation.

**F W de Klerk
Cape Town
August 2001**

Contents

Foreword	2
Introduction	4
1. What is a Minority?	5
2. Justifications for minority rights	6
3. International documents on minority rights	11
3.1 Pre-twentieth century agreements	11
3.2 The interwar period	12
3.3 The Cold War era	12
3.4 The post-Cold War years	16
3.5 Minority rights documents from non-state organizations	21
4. A summary of international standards	25
5. International documents featured in the report	28
6. Bibliography	30

Affirmative Action and the Politics of Transformation: A Survey of Public Opinion

First Published 2004/09

© The FW de Klerk Foundation
 PO Box 15785
 Panorama 7506
 South Africa
 Tel: +27 21 930 3622
 Fax: +27 21 930 0955
 Email: fwdkfoun@mweb.co.za

All rights reserved. No part of this publication may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopying, recording or any information storage and retrieval system, including the Internet, without permission in writing from the publishers.

Introduction

In the 1990s the issue of minority rights in plural societies rose to the top of the global political agenda for the first time since 1945. Although there had since the 1950s been a gradual international recognition of the need to protect minority rights, the issue gained a new prominence and urgency with the upsurge in ethnic conflict following the collapse of communist dictatorships in Eastern Europe. Today the status of minority communities remains a central political issue in many parts of the world.

Minorities and majorities across the globe still clash over such issues as language rights, religious freedom, education curricula, land claims, regional autonomy and national symbols. The politics of language – involving decisions on which languages to use in political, judicial and educational institutions – is in many states at the heart of conflict between minority groups and the majority populations. Recent history is replete with examples of the highly combustible quality of such conflicts. As a senior official in the Clinton administration warned, ignoring minority issues ‘is like ignoring a volcano’. Consequently, one of the greatest challenges facing democracies today is to resolve conflicts between minorities and majorities in plural societies.

The minorities at issue are mostly ‘national minorities’, in contemporary international parlance. In some cases the term ‘minority’ can also refer to an indigenous people or to an ethno-cultural group.

The main objective of this report is to survey the major international conventions, treaties or declarations dealing with minority rights. By compiling a chronological inventory, it is possible to trace the development of minority rights over time. Although the official recognition of such rights can be dated back to the 16th century, it is a process that gained momentum only in the second half of the 20th century and reached a climax towards the end of the century. For minorities worldwide the current period is one of consolidating the gains made in the 1990s and ensuring that governments fulfil their obligations under what constitutes an international minority rights regime.

Before listing the relevant international instruments, it is necessary to get clarity on the meaning of the term ‘minority’ and to make a case for the formal protection of minority rights alongside individual rights.

1. What is a minority?

Despite the fact that the question of minorities presently enjoys such international prominence, surprisingly little has until relatively recently been done to formulate an authoritative, generally acceptable definition of a ‘minority’. A plausible reason for this neglect is that the lack of a definition could be used by states as an excuse not to deal at all with potentially contentious minority issues at home by claiming that the relevant group was not a ‘minority’ and had no claims to special rights, but was simply part of the broader national population. It is instructive that multilateral organizations such as the United Nations (UN) and the European Union (EU), have historically not been very forthcoming with definitions of minorities; it was only in the last decade or so that they began addressing the vital question of defining a minority.

To fill the conceptual void, Francesco Capotorti, Special Rapporteur of the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities, in 1979 proposed the following definition of a minority: ‘A group numerically inferior to the rest of the population of a State, in a non-dominant position, whose members - being nationals of the State - possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language.’ This proved a seminal definition, later gaining wide acceptance. In their definitions of a minority (or national minority), both the European Commission for Democracy through Law and the Parliamentary Assembly of the Council of Europe in 1993 essentially repeated Capotorti’s formulation. The gist of these mainstream definitions is neatly captured in Åkermark’s definition of a minority as ‘a non-dominant, institutionalized group sharing a distinct cultural identity that it wishes to preserve.’

Most of the definitions of minorities refer to the historical link between the specific minority group and the state in which it finds itself. This important because the plight of other disadvantaged groups, such as women, is often seen as a ‘minority cause’; in terms of existing definitions they do not qualify as minorities and hence cannot claim minority rights. They are accordingly excluded from the present survey.

It was noted in Introduction that the term ‘minority’ embraces three distinct groups. Minority rights could be applicable to all three. Minority rights could be applicable to three types of minorities. The first and most common are national minorities. Such a minority consists of a group that is numerically smaller than the rest of the population of a country; its members, nationals of that state, display ethnic, religious or linguistic characteristics different from those of the rest of the population; and they are committed to safeguard their

culture, traditions, language or religion. These are the classical minorities that are the subject of most existing international instruments of minority protection. More often than not, culture and language are the key distinguishing features of minorities in this category, hence the widely used appellation 'ethnic minorities.' Among the numerous examples of 'national' or 'ethnic' minorities - the two terms can be regarded as synonymous - are the Kurds in Turkey, Swedes in Finland, Germans in Belgium and Italy, Serbs in Bosnia-Herzegovina, French in Canada, Tamils in Sri Lanka and Afrikaners in South Africa.

Ethno-cultural minorities, in the second place, are often immigrants and refugees and their descendants living on a more than merely transitional basis in countries other than those of their origin. These minorities are in many cases different from the majority in such features as race, culture or religion. The Turks in Germany, Indians and Pakistanis in Britain and Mexicans in the United States are some examples.

Indigenous peoples, finally, share all the characteristics of national minorities but have an additional distinguishing feature: they are the original inhabitants of their countries, having settled there before the majority population. The San in South Africa, Aborigines in Australia, Maoris in New Zealand and Inuit in Canada are cases in point.

2. Justifications for minority rights

One of the main arguments used against the formal recognition of minority rights, is that these are superfluous in a democracy. The protection of individual human rights – a hallmark of democracy – is said to encompass minority (or group) rights. Another argument is that minority rights are incompatible with individual rights. In South Africa in particular, opponents of minority rights are quick to equate such rights with apartheid and hence portray minority rights as undemocratic and designed to entrench (white) group privileges. Critics in the third place maintain that minority rights accentuate divisions among population groups, thwart the development of national unity and loyalty, and may even stimulate secessionist tendencies.

What the first argument overlooks, is that democracy is like the proverbial house with many mansions. As the American political scientist Timothy Sisk confirms, simple majoritarian democracy creates special problems in deeply divided societies. Members of national minorities expect that the ballot box will exclude them permanently from political power. In such societies electoral competition is after all often 'a contest for ownership of the state'. Minorities then tend to equate democracy with the 'structured dominance of adversarial majority groups', rather than with freedom of participation. Consider the cases

of the Tamils in Sri Lanka and the Roman Catholics in Northern Ireland. Under simple majority rule the Protestants of Northern Ireland would govern permanently, as would the German-speakers in Switzerland. Where minority groups believe that they lack the means to secure their survival as a group, alienation and instability could be the inevitable consequences.

In response to the second claim, it needs to be said that the mere incidence of ethnic conflict already suggests that the constitutional protection of individual rights does not necessarily safeguard minority interests. The renowned Canadian political philosopher Will Kymlicka maintains that traditional standards of human rights are simply not capable of resolving some of the most important and contentious issues concerning cultural minorities. Which languages ought to be recognized in legislatures, the public service and courts of law? Should public offices be assigned on the basis of proportionality? Should minorities be integrated with the majority? Where such matters are addressed by way of majority decisions, Kymlicka says, cultural minorities are exposed to significant injustice at the hands of the majority – something that may exacerbate ethnic conflict. To treat people merely as individuals in multinational societies (i.e. those with two or more cultural or ethnic groups) becomes a pretext for ethnic injustice. ‘I believe it is legitimate, and indeed unavoidable’, Kymlicka insists, ‘to supplement traditional human rights with minority rights’. It is in this spirit that a Canadian government publication (cited by Kymlicka) declared in 1991: ‘In the Canadian experience, it has not been enough to protect only universal individual rights. Here, the Constitution and ordinary laws also protect other rights accorded to individuals as members of certain communities...The fact that community rights exist alongside individual rights goes to the very heart of what Canada is all about.’ Far from being accorded special privileges not available to the majority, a minority is merely given the same rights as the majority would normally claim, for instance with regard to language preferences.

An emphasis on minority rights, in the third place, need not occur at the expense of national unity or loyalty. Instead of being mutually exclusive, group and national loyalties can be mutually reinforcing. In multinational states recognizing cultural uniqueness of minorities, such groups’ loyalty towards the state may actually be strengthened. They can be expected to develop a common patriotism, rather than a shared national identity. Switzerland is an outstanding example of a country whose peoples display a strong sense of national loyalty despite language and cultural differences. In a multinational state the recognition of cultural (or ethnic) identity may well be a prerequisite for patriotism.

Athanasia Åkermark, approaching minority protection from an international law perspective, presents three ‘justificatory grounds’: peace, human dignity, and culture. As far as peace is concerned, the link with minority protection is obvious from the frequency of treaty stipulations regarding minorities in peace

treaties over a long period of time. The politically destabilizing effects of the insufficient recognition of minorities, is evidenced by the number of conflicts engendered by this kind of situation. The second link flows from the fact that human rights have always been regarded as fundamental to human dignity, and that minority rights are today increasingly seen as a further development of human rights. The dignity of the individual is in the third instance intertwined with his cultural context. If one understands human dignity as ‘a right to self-preservation (existence), accompanied by a right to develop one’s own personality according to an own plan of life (self-fulfillment)’, Åkermark writes, ‘then the legitimacy and necessity of minority cultures as ‘contexts of choice’ seems to be well founded.’

On a more philosophical level, the debate that started in the 1980s between the so-called liberals and communitarians have been quite influential in the further development of arguments for minority rights. Stated very simply, the communitarian position criticized the liberals for not paying sufficient attention to the extent to which an individual leads a meaningful existence within the context of his or her community, and not only as a free-standing individual with personal needs. Communitarians view group interests and individual interests as mutually reinforcing. Here one can refer to Ronald Garet’s powerful notion of “groupness” (as explained by Darlene Johnston). Garet takes as his point of departure the Sartorian notion that freedom is a structural feature of existence. He then defines three components of human being, each of which, just like freedom, constitutes an intrinsic moral good: personhood, communalism (the group good), and sociality (the social good). The rights of personhood deal with ‘the foundational moral possibility of transcending or negating life history by taking responsibility for that history and by choosing anew.’ In other words, each individual has the right to exercise the freedom structurally inherent in his existence by writing his individual history. The same notion of freedom as writing one’s own history is transposed onto the social level when Garet speaks about the rights of sociality, being the ‘right to move out of the history in which we find ourselves and toward the realization of our common humanity.’ The third component of human being, communalism, leads to a right of self-preservation, i.e. ‘the right of groups to maintain themselves and to pursue their distinctive courses.’ What is important about Garet’s argument is the equal value that he assigns to each of the three components of human being, thus evading the false opposition between individual rights (personhood) and human (sociality) and group (communalism) rights.

Will Kymlicka, it has already been noted, is equally adamant about the false opposition between group rights and individual rights. He argued for minority or ‘group-differentiated’ rights from the perspective of liberal democracy (since

the end of the Cold War widely regarded as the ideal political dispensation). Kymlicka distinguishes what he calls “external protections” for groups from “internal restrictions” within groups. External protections are measures taken to protect vulnerable minorities against the state or other majorities, while internal restrictions are the kind of restrictions that some groups, usually in traditionalist mould, want to impose on their members in the name of the greater good of the group. Kymlicka endorses the former, arguing that external protections may actually advance the individual rights of group members and even may even promote their individual liberty. As regards internal restrictions, he is more or less in agreement with the liberal critics that such restrictions do indeed often subject the individual to the group. There is consequently a delicate and difficult balance to be struck between the larger society, the minority group, and its individual members.

Another eminent Canadian philosopher Charles Taylor argues that the so-called difference-blind approach to politics tends to negate the identity of groups by forcing people into what he calls ‘a homogeneous mold that is untrue to them’. Minority cultures are then ‘forced to take alien form’, that of the hegemonic or dominant culture. The supposedly fair and difference-blind society is then not only ‘inhuman’ (by suppressing identities) but also ‘highly discriminatory’ (against minority cultures).

Kymlicka draws further implications of group-differentiated rights for vulnerable minorities within national states. When dealing with decisions taken at national level that affect the entire population, some form of special group representation (e.g. a number of seats reserved for a minority in parliament) could be useful. When it comes to issues mostly pertinent to the a specific minority, such as education and language, Kymlicka advocates that these matters be removed from national hands and transferred to the minority by way of some right to self-government.

Some critics of minority rights claim that assimilation with the majority as the appropriate route for members of a minority group. Kymlicka, though, is sceptical of the possibility of moving between cultures and thinks that this possibility depends on the ‘gradualness of the process, the age of the person, and the extent to which the two cultures are similar in language and history’. He also points out that liberalization and modernization do not always undercut group affinity: ‘Far from displacing national identity, liberalization has in fact gone hand in hand with an increased sense of nationhood.’

A compelling political case for the recognition of minority rights alongside individual rights, using many of the above arguments, has recently been made in *The Rights of Minorities: A Declaration of Liberal Democratic Principles concerning Ethnocultural and National Minorities and Indigenous Peoples*. Initiated by the Liberal Institute of Germany’s Friedrich Naumann Foundation (aligned to the Free Democratic Party), the Declaration was adopted in

September 2000 by members of 38 indigenous peoples, national and ethno-cultural minorities from 26 countries.

The rights and liberties of the individual, emphasized by liberal democracy, include the right freely to associate with others – and hence have a ‘group-related dimension’ too, the Declaration points out. The group or minority refers to ‘a community based on common cultural, linguistic or religious heritage’, with which people associate freely and voluntarily. Such groups have a right ‘to be different’ from each other and from the majority in a particular state. The enforcement of human rights and the rule of law, the Declaration notes, will go a long way to protect minorities. Yet the Declaration acknowledges that modern states ‘are thoroughly interventionist, with a high density of regulation, and thus tilted towards uniformity’. As long as this tendency towards uniformity at the expense of diversity persists, ‘specific measures to safeguard minority rights are called for’.

The Rights of Minorities declaration relates the recognition of diversity to freedom. The latter, according to the Declaration, means diversity; uniformity in human society can only be achieved with coercion. Consequently, ‘the rights of minorities are of paramount importance to all who cherish freedom’. The Declaration goes so far as to insist that ‘(n)o society and no country can be termed a liberal democracy that does not acknowledge, implement and respect the rights of minorities’. Or to put it differently, ‘(w)herever minorities exist, their being different must be respected by the majority as part and parcel of their innate and inalienable right to be free’. (Governments consequently have an obligation to refrain from all attempts at the coerced assimilation of minorities, the Declaration states.)

The Declaration is adamant that group-specific rights, as postulated in the document, are designed to prevent discrimination against minorities and to create substantial equality; the rights do not establish group privileges.

The forces of globalization and the end of the Cold War, the Declaration observes, ‘have renewed the desire for recognition and preservation of the unique identities of ethno-cultural communities, national minorities and indigenous peoples’. The recognition, protection and promotion of such minority rights are – in the Declaration itself and in scores of democratic states – ‘based on internationally recognized human rights and the establishment of liberal democratic institutions of governance to implement such rights’.

The Declaration records the ‘growing universal consensus on the universality, the indivisibility and the interdependence of all human rights’ – a confirmation that minority rights are fully compatible with and indeed part and parcel of the modern human rights regime.

Compiled from a liberal democratic perspective, the Declaration holds the value of individual liberty supreme. Again, there need be no clash with group rights. ‘Minority rights must always contribute to safeguarding individual liberty for the members of minorities and majority alike’, the Declaration states. Group rights, while emphasizing the distinct identity of groups, ‘ultimately serve the rights of their individual members, but must in no case infringe them’.

In short, minority rights are supplementary to traditional (individual) human rights, ‘designed to ensure that men and women who live in a specific minority situation can safely and fully enjoy their human rights’, in the words of the Declaration. For far too many minorities, left ‘without the additional protection and fortification by minority rights’, human rights are at best a piece of paper.

3. International documents on minority rights

The chronological survey of documents on minority rights focuses on agreements, conventions and declarations emanating from inter-state organizations or meetings. These documents can be described as formal international instruments. Provision is, however, made in the final section of the report for a number of major documents on minority rights compiled by non-state (i.e. private) international bodies.

3.1. Pre-twentieth century agreements

The *Peace of Augsburg*, concluded between the ‘Roman Imperial Majesty and the Electors, Princes and Estates’ of the ‘Germanic Nation’ in 1555, is one of the oldest treaties embodying elements of group rights. The parties agreed that no harm may be inflicted on any ‘estate of the Empire’ on the grounds of the Augsburg Confession (a statement of the Protestant faith). The treaty elaborated on the right of the different parties to exercise religious freedom, be they Protestant or Roman Catholic.

The *Treaty of Westphalia* of 1648 likewise bound the signatories - the ‘emperor, princes and states of the empire’ and the ‘plenipotentiaries of the queen and crown of Swedeland’ - to restoring church possessions and allowing the free exercise of religion. Bringing to an end the Thirty Years’ War in Europe, the treaty marked the end of the supremacy of the Holy Roman Empire and the birth of the modern sovereign state.

3.2. The interwar period

Proceeding to the 20th century, the first document to mention is the *Treaty of Versailles* of 1919, the peace agreement that formally ended World War I. Article 86 obliged Czechoslovakia to ‘protect the interests of inhabitants of that state who differ from the majority of the population in race, language, or religion’. Article 93 referred to the ‘interests of inhabitants of Poland who differ from the majority of the population in race, language or religion’. The *Covenant of the League of Nations*, the world body born out of the Treaty of Versailles, did not take these embryonic minority rights any further. The closest the Covenant, (adopted in 1920) came to collective rights, was in the obligations mandatory powers undertook towards the ‘native inhabitants’ of their mandated territories. Among other things, the mandatories had to ‘secure just treatment’ of the inhabitants and to administer their territories ‘under conditions which will guarantee freedom of conscience and religion, subject only to the maintenance of public order and morals’.

3.3. The Cold War era

Although adopted during World War II, the *Atlantic Charter* of 1941 is mentioned here because it had a material bearing on the shape of the postwar world. The Charter acknowledged ‘the right of all peoples to choose the form of government under which they will live’. The *Charter of the United Nations*, adopted in 1945, likewise recognizes ‘the principle of equal rights and self-determination of peoples’. The ‘peoples’ referred to, at least in the UN Charter, were not national minorities within states, but rather entire national populations, especially those in colonial territories. Article 73, dealing with non-self-governing territories, obliges states administering these territories ‘to ensure, with due respect for the culture of the peoples concerned, their political, economic, social, and educational advancement, their just treatment, and their protection against abuses’. Again, the ‘peoples’ are more likely to be whole populations than minority groups. The Charter was written in the idiom of the early postwar preoccupation with individual human rights, the antithesis of so-called minority rights so blatantly abused by Nazi Germany. Accordingly, one of the purposes of the world body (article 1(3)) is to achieve international cooperation in ‘promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion’.

The *Universal Declaration of Human Rights*, 1948, is also couched in the language of individual rights: ‘Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as

race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status'. Much the same formulation is to be found in the Declaration on the Rights and Duties of Men, adopted by the Organization of American States in 1948, and the European Convention for the Protection of Human Rights and Fundamental Freedoms (1950). The latter, interestingly enough, lists 'association with a national minority' as one of the unacceptable grounds for discrimination (i.e. denial of individual human rights and freedoms).

A notion of collective rights was evident in the 1948 *Convention on the Prevention and Punishment of the Crime of Genocide*. The Convention defined genocide as 'acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such'. Among the specific acts mentioned as constituting genocide, are the killing of members of the group; causing them serious bodily or mental harm, and inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part. Far from prescribing how members of national, ethnical, racial or religious groups ought to be treated, the Convention specified how they may *not* be treated.

Explicit international recognition of the existence of minorities and group rights emerged as early as 1954 in a *recommendation of the United Nations Sub-commission on Prevention of Discrimination and Protection of Minority Rights*. In states inhabited by 'well defined ethnic, linguistic or religious groups which are clearly distinguished from the rest of the population and which want to be accorded differential treatment', members of such groups have a right to establish their own schools.

The International Labour Organization's (ILO's) *Convention on Indigenous and other Tribal and Semi-tribal Populations in Independent Countries*, 1957, went well beyond any of the preceding international instruments in addressing minority rights. A very comprehensive document, it focuses on people with a long experience of colonial subjugation. The Convention recognizes the particularity of groups and the continuity of group values and institutions (such as traditional forms of 'social control' and traditional land ownership). Among the rights recognized in the Convention are those relating to collective and individual land ownership; agrarian development; compensation for land confiscated by government, and 'protected' employment and non-discrimination in the workplace. Governments furthermore have to promote the protection, development and integration of indigenous, tribal and semi-tribal peoples. With regard to education, the ILO Convention stipulates that children belonging to indigenous and tribal groups should be taught to read and write in their mother tongue or, where not practical, in the language most commonly used by their group. Appropriate measures are also called for to preserve the mother tongue or vernacular language. This was indeed a path-breaking

document for defining group rights positively: the relevant state or majority is not only to desist from certain actions that could impinge on the rights of the minority, but also has to take specific steps that would enhance the rights of that minority.

The United Nations *Convention on the Elimination of All Forms of Racial Discrimination* of 1966 is best known for prohibiting discrimination on the basis of ‘race, colour, descent, national or ethnic origin’. Yet it also provides for special measures for the advancement of racial or ethnic groups – an implicit acknowledgment of minority rights.

A more explicit recognition of minority rights is contained in the *International Covenant on Civil and Political Rights* approved by the United Nations General Assembly in 1966. Although giving precedence to individual rights, the Covenant (article 27) makes provision for group rights: ‘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 other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language’. The International Covenant’s reference to minorities is formulated in negative terms: they *may not be denied* particular rights (by public authorities). Article 27 nonetheless establishes and recognizes a right conferred on individuals belonging to groups sharing a common culture, religion and/or language. It places states under an obligation to ensure that the existence and exercise of this right are protected against denial or violation by the state itself or by other persons.

The move towards positive rights for minorities was given a major impetus by the Conference on Security and Cooperation in Europe (CSCE, later Organization for Security and Cooperation in Europe, OSCE) in 1975. The *Helsinki Final Act* of that year declares that participating states (over 30 at the time, including the USSR and its East European satellite states) on whose territories national minorities exist, ‘will respect the right of persons belonging to such minorities to equality before the law, will afford them the full opportunity for the actual enjoyment of human rights and fundamental freedoms’.

Although the by then commonly used terms ‘minorities’ or ‘national minorities’ were not employed, the *African Charter of Human Peoples Rights*, adopted by the Organization of African Unity in 1981, contained an allusion to group rights. ‘All peoples shall have the right to their economic, social and cultural development with regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind’, article 22 reads.

The UNESCO *Declaration on Race and Racial Prejudice*, 1982, addresses the contentious relationship between group differentiation and discrimination. The very first article of the Declaration contains this critical recognition: 'All individuals and groups have the right to be different, to consider themselves as different and to be regarded as such'. The proviso, though, is that 'the diversity of life styles and the right to be different' may under no circumstances serve as a pretext for racial prejudice. The Declaration goes on to state that identity of origin in no way affects the fact that people may live differently, 'nor does it preclude the existence of differences based on cultural, environmental and historical diversity nor the right to maintain cultural identity'.

The development of positive group rights was taken a step further with the CSCE's *Concluding Document adopted at the Stockholm conference* in 1986. Participating states accepted a set of clearly defined obligations with regard to distinct groups, one of which states: 'They [i.e. the signatories] will ensure that persons belonging to national minorities or regional cultures on their territories can maintain and develop their own culture in all its aspects, including language, literature and religion; and that they can preserve their cultural and historical monuments and objects'.

With its *Resolution on the Languages and Cultures of Regional and Ethnic Minorities*, adopted in 1987, the European Parliament went beyond any of the multilateral agreements or decisions already mentioned. The European Parliament points to the need for members states of the European Union (EU) to recognize their linguistic minorities in their laws 'and thus create the basic condition for the preservation and development of regional and minority cultures and languages'. In the field of education, the Parliament recommends that EU members should, among other measures, arrange for pre-school to university education and continuing education to be officially conducted in the minority and regional languages in the areas concerned 'on an equal footing with instruction in the national languages'. Administrative and legal measures are recommended to provide a direct legal basis for the use of regional and minority languages, in the first instance in the local authorities of areas where minority groups live. Another proposed measure would require decentralized central government services to use national, regional and minority languages in the areas concerned. Measures recommended in respect of the mass media call for access to public and commercial broadcasting services 'in such a way as to guarantee the continuity and effectiveness of broadcasts in regional and minority languages, and for ensuring that minority groups obtain organizational and financial support for their programmes commensurate with that available to the majority. With regard to social and economic measures, the European Parliament recommends *inter alia* that provision be made for the use of regional and minority languages in public concerns (e.g. postal services), on road and other public signs, and in consumer information and product labelling.

The rights of indigenous and tribal peoples are again specifically addressed by the International Labour Organization in its 1989 *Convention concerning Indigenous and Tribal Peoples in Independent Countries*. Formulated in the by now familiar positive terms, the Convention declares that governments 'shall have the responsibility for developing, with the participation of the [indigenous and tribal] peoples concerned, coordinated and systematic action to respect the rights of these peoples and to guarantee respect for their dignity'. Such action *shall* include measures for '(p)romoting the full realization of the social, economic and cultural rights of these peoples with respect for their social and cultural identity, their customs and traditions and their institutions'. In applying the provisions of the Convention, governments *shall* consult with the peoples concerned through appropriate procedures 'and in particular through their representative institutions'. Measures must be taken for the 'full development' of such institutions. Governments *shall* furthermore recognize the right of these peoples 'to establish their own educational institutions and facilities' and provide appropriate resources. Children belonging to the groups concerned *shall* wherever practicable be taught to read and write in their own indigenous language or in the language most commonly used by the groups.

The final international instrument adopted during the Cold War era, is the CSCE's *Concluding Document of the Vienna meeting* in 1989. The Document on the one hand reaffirms participating states' commitment to individual human rights and on the other to group rights. Article 18 summarises the participants' obligations with regard to minority rights: 'They will protect and create conditions for the promotion of the ethnic, cultural, linguistic and religious identity of national minorities on their territory. They will respect the free exercise of rights by persons belonging to such minorities and ensure their full equality with others'.

3.4. The post-Cold War years

The *Document of the Copenhagen Meeting* of the CSCE, 1990, can be regarded as the first major international instrument on minority rights to have been produced in the then emerging post-Cold War era. The elaborate positive provisions for minority rights reflect the growing salience of such rights in a world characterized by an upsurge of ethnic nationalism and the fragmentation of several multi-ethnic states.

The Copenhagen Document relates the CSCE's concern with minority issues to a set of crucial values that were to gain greater international acceptance than ever in the aftermath of the great East-West divide. Questions relating to national minorities, the 35 participating states recognize, 'can only be satisfactorily resolved in a democratic political framework based on the rule of law, with a functioning independent judiciary'. They further reaffirm that 'respect for the rights of persons belonging to national minorities as part of

universally recognized human rights is an essential factor for peace, justice, stability and democracy in the participating States'. Minority rights are therefore not merely compatible with democracy and human rights, but are also a prerequisite for peace, justice and stability.

The Document states that persons belonging to national minorities 'have the right freely to express, preserve and develop their ethnic, cultural, linguistic or religious identity and to maintain and develop their culture in all its aspects, free of any attempts at assimilation against their will'. Among their rights are the free use of their mother tongue in private and public, and the establishment and maintenance of their own educational, cultural and religious institutions (funded from private and public sources). The Copenhagen Document also places specific obligations on states. They *will*, for instance, 'protect the ethnic, cultural, linguistic and religious identity of national minorities on their territory and create conditions for the promotion of that identity'. States 'will take the necessary measures to that effect' after consulting the minority groups. The right to mother tongue instruction is an area specifically mentioned for attention. Another is the right of members of national minorities to 'effective participation in public affairs', including matters relating to the 'protection and promotion of the identity of such minorities'. One possible means to the latter end is to establish 'appropriate local or autonomous administrations corresponding to the specific historical and territorial circumstances of such minorities'.

The CSCE's *Charter of Paris for a new Europe*, also adopted in 1990, reaffirms on the one hand the rights of national minorities and on the other the obligations of states towards these minorities. The Charter also recognizes both the normative and practical considerations behind the recognition of minority rights. It was the participating states' 'deep conviction' that in the new (post-Cold War) Europe 'friendly relations among our peoples, as well as peace, justice, stability and democracy, require that the ethnic, cultural, linguistic and religious identity of national minorities be protected and conditions for the promotion of that identity be created'. National minority issues can only be resolved satisfactorily in a democratic political framework, the Charter continues, and the rights of national minorities 'must be fully respected as part of universal human rights'. Note, once again, the connection between minority rights and human rights, and between minority rights and democracy.

One of the products of the end of the Cold War and the dissolution of the Soviet Union is the Commonwealth of Independent States (CIS). In the *agreement establishing the CIS* in 1991, the member states (previously non-independent republics within the USSR) declare their desire to facilitate 'the expression, preservation and development of the distinctive ethnic, cultural, linguistic and religious characteristics of the national minorities in their territories and of the unique ethno-cultural regions that have come into being', and commit themselves to extend protection to these minorities.

The importance of minority rights is also acknowledged in the guidelines that the Council of the European Union drew up in 1991 with regard to the *recognition of new states* in the former Soviet Union and communist Eastern Europe. One of the guidelines calls for guarantees for the rights of ethnic and national groups and minorities in the new states in accordance with decisions of the CSCE.

The universality of minority rights is clearly manifested in the UN General Assembly's adoption in 1992 of the *Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities*. This remains one of the most comprehensive international documents of its kind, setting out both the rights of minorities and the duties of states. The five rights of persons belonging to national or ethnic, religious and linguistic minorities, specified in the Declaration, are a reaffirmation of rights appearing in other international instruments rather than a statement of new rights. These are minorities' rights to

- enjoy their own culture, profess and practice their own religion, and use their own language freely in public and private;
- participate effectively in cultural, religious, social, economic and public life;
- participate effectively in decisions on the national and, where appropriate, regional level concerning their minority group or region;
- establish and maintain their own associations, and
- establish and maintain free and peaceful contacts with other domestic minorities and with citizens of other states to whom they are related by national or ethnic, religious or linguistic ties.

The Declaration prescribes that states 'shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity'. States are also obliged to adopt appropriate legislative and other measures to the above ends. The Declaration lists five specific measures. Two are evidently compulsory: states *shall* take measures – with the qualification 'where required' – to ensure that minorities 'may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law', and to create favourable conditions for minorities 'to develop their culture, language, religion, traditions and customs', on condition that it is done in accordance with national laws and international standards. States *should* (perhaps a lesser obligation) take appropriate measures so that, wherever possible, minorities 'may have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue'. States *should* furthermore, where appropriate, take measures in the field of education to encourage minorities' knowledge of their history, traditions, language and culture, as well as knowledge of society as a whole.

Finally, states *should consider* (evidently another category of obligation) appropriate measures so that minorities may participate fully in economic progress and development of their countries. More generally – and prescriptively – states *shall* plan and implement national policies and programmes ‘with due regard for the legitimate interests’ of minority groups. It must be conceded that the qualifications in the obligations of states leave them some room for manoeuvre – probably a deliberate move to mobilize the widest possible support in the UN for the Declaration. Yet by adopting a document containing extensive minority rights on the one hand and wide-ranging state obligations on the other, the world body has given the quest for the protection and promotion of minority rights global legitimacy.

The salience of minority issues in the post-communist world finds further recognition in the CSCE’s creation in 1992 of the office of *High Commissioner on National Minorities*. It was specifically designed as ‘an instrument of conflict prevention’ with regard to national minority questions; the High Commissioner should identify problems and encourage solutions before they develop into armed conflicts. By that time the member states of the CSCE in particular had become painfully aware of the combustible potential of tensions between ethnic groups. In 1993 the Council of the Baltic States (representing 11 countries, including Russia, Germany and Poland) established the office of the *Commissioner on Human Rights and Minority Questions*, entrusted with an ‘ombudsman’ mandate that would allow him to receive individual complaints and publish an overview of action taken. As regards the European Union, it in the early 1990s made respect for the rights of national minorities a formal condition for the accession of new members, for the extension of unilateral commercial preferences to countries, and for benefits under the Union’s assistance programmes.

In the CSCE’s *Helsinki Document* of 1992, member states once again affirm their determination to implement all their CSCE commitments on national minorities.

The centrality of language as a minority right is expressed in the *European Charter for Regional or Minority Languages*, a legal instrument approved by the Council of Europe in 1992. (Regional and minority languages are those traditionally used within a particular area of a state by nationals who constitute a group numerically smaller than the rest of the state’s population, and which are different from the language(s) of the state.) The preamble of the Charter notes that some regional or minority languages ‘are in danger of eventual extinction, to the detriment of Europe’s cultural wealth and traditions’. It is therefore considered necessary and legitimate to take ‘special steps’ to preserve and develop these languages. The preamble further declares the use of a regional or minority language in private and public life an ‘inalienable right’ conforming to the principles embodied in several of the

documents already discussed. The lengthy Charter lists a wide range of measures to promote the use of regional or minority languages in different spheres of public life: education, the judicial process, public services, the media, cultural activities and facilities, and economic and social life. By identifying different options, the Charter leaves governments with considerable discretion in implementing the right to use regional or minority languages in public. Nonetheless, the document unequivocally recognizes the need for special measures to preserve and develop minority languages in Europe and charges governments with the responsibility for doing so.

The Council of Europe reiterates the link between individual and group rights in the *Declaration on Human Rights* and in the *European Convention for the Protection of Human Rights and Fundamental Freedoms*, both adopted in 1993. Each contains the established provisions on positive and negative rights and they also restate the rights of persons belonging to such groups as well as the obligations of states.

At the global level the UN's World Conference on Human Rights issued the *Vienna Declaration* in 1993. Apart from dealing extensively with individual rights, the Declaration contains sections on the rights of national minorities and indigenous people. The document acknowledges the contribution that the promotion and protection of minority rights make to the 'political and social stability' of the states in which minority groups live. It also reiterates the obligations of states towards minorities. With regard to indigenous people, for instance, the Vienna Declaration obliges states to 'recognize the value and diversity of their [minorities'] distinct identities, cultures and social organization'.

Reflecting the Europeans' pivotal role in championing minority rights, ten Central European states in 1994 proposed the *Central European Initiative Instrument for the Protection of Minority Rights*. Under article 7, states 'guarantee the right of persons belonging to national minorities to express, preserve and develop their ethnic, cultural, linguistic or religious identity and to maintain and develop their culture in all its aspects'. Drawing on CSCE documents on minority rights, the Initiative Instrument records familiar rights in such areas as the public use of minority languages, contacts with state authorities, education, the media, and participation in public affairs.

Over 50 states participated in a conference in Paris in 1994 to set up a Pact on Stability in Europe. In a *Concluding Document*, the participating states affirm their will 'to create a climate of confidence which will be favourable to the strengthening of democracy, to respect for human rights and to economic progress and peace, while at the same time respecting the identities of peoples' – the latter an evident reference to the status of national minorities. The Document goes on to declare that stability in Europe will be achieved through

the promotion of good neighbourly relations, something that in turn requires the resolution of minority issues. Note the reiteration of the connection between regional stability and the fortunes of national minorities.

Also in 1994 the Council of Europe made one of the weightiest contributions to the international protection and promotion of minority rights with the adoption of the lengthy legal instrument entitled *Framework Convention for the Protection of National Minorities*. Unlike most other international instruments on minority rights that contain only political obligations, the Framework Convention is legally binding on member states of the Council of Europe. The preamble lays the basis for the Convention by declaring that ‘a pluralist and genuinely democratic society should not only respect the ethnic, cultural, linguistic and religious identity of each person belonging to a national minority, but also create appropriate conditions enabling them to express, preserve and develop this identity’. In addition to reaffirming the link between democracy and minority rights, the Framework Convention emphasizes that the protection of such rights ‘forms an integral part of the international protection of human rights’. Drawing on existing international instruments, the Convention elaborates on the obligations of states towards national minorities in such spheres as the public use of minority languages, the media, education, dealings with public authorities, and the effective participation of national minorities in public affairs, especially in matters affecting them.

Finally, brief reference can be made to the *Inter-American Declaration on the Rights of Indigenous People*, 1995. The states involved ‘recognize that the indigenous peoples are entitled to collective rights in so far as they are indispensable to the enjoyment of the individual rights of their members. Accordingly they recognize the right of the indigenous peoples to collective action, to their cultures, to profess and practice their religious beliefs and to use their languages’. The states are obliged to take positive measures to give practical effect to these commitments in such areas as public broadcasting, education and the public use of indigenous languages.

3.5. Minority rights documents from non-state organizations

It is not only states and inter-state organizations that champion the rights of minority groups internationally. Elements in international civil society are also raising their voices, thus broadening the quest for such rights and the corresponding duties of states. Through their exertions non-state organizations help to keep minority issues on the international agenda and to monitor the compliance of states with their obligations under international conventions.

The first international document that merits inclusion in this section, is the *Universal Declaration of Linguistic Rights* of 1996. It was adopted at a World Conference on Linguistic Rights, held in Barcelona in June, on the initiative of

the International PEN Club and the Escarré International Centre for Ethnic Minorities and Nations (CIEMEN). Some 200 participants from 90 countries attended. The Declaration takes as its point of departure that the majority of the world's endangered languages are found in non-sovereign communities. The main factors preventing the development of these languages and accelerating the process of language substitution, include 'the lack of self-government and the policy of states which impose their political and administrative structures and their language'. Peaceful co-existence between language communities requires that the promotion and respect of all languages and their social use in public and in private be 'guaranteed'. One of the general principles enunciated in the Declaration is that all language communities have the right to manage their own resources so as to ensure the use of their language in all functions within society.

Under the title 'overall linguistic regime', the Declaration deals with the realms of public administration and official bodies, education, the media, culture, and the socio-economic sphere.

In the first of these areas, the Declaration asserts, all language communities are entitled to the official use of their language within their territory; they have the right to communicate in their own language with the central, territorial, local and supra-territorial services of the public authorities; they have the right for laws and other legal provisions that concern them to be published in the language specific to the territory; and representative assemblies must have as their official language(s) the language(s) historically spoken in the territories they represent.

In the field of education, the Declaration first states that education 'must always be at the service of linguistic and cultural diversity and of harmonious relations between different language communities throughout the world'. The principal right of language communities in this area is to decide to what extent their language is to be present, as a vehicular language and as an object of study, at all levels of education within their territory (preschool, primary, secondary, technical and vocational, university and adult education).

As regards the media, one right of language communities is an equitable representation of their language in the communications media of their territory. A cultural right is to use, maintain and foster the language of a community in all forms of cultural expression. In the socio-economic domain, the Declaration insists that all language communities have the right for their language to occupy a pre-eminent place in advertising, signs, external signposting 'and all other elements that make up the image of the country'. These communities also have the right to receive full oral and written information in their own language on the products and services proposed by commercial establishments in their territory, including instructions for use, labels, lists of ingredients, advertising and guarantees.

The second ‘private’ international document is *The Hague Recommendations regarding the Education Rights of National Minorities*, compiled by the Foundation on Inter-Ethnic Relations in 1996. (Based in The Hague, the Foundation undertakes research in support of the OSCE’s High Commissioner on National Minorities.) ‘The right of persons belonging to national minorities to maintain their identity’, the Recommendations declare at the outset, ‘can only be fully realized if they acquire a proper knowledge of their mother tongue during the educational process’. Accordingly, states should create conditions enabling institutions that represent national minorities to participate meaningfully in the development and implementation of policies and programmes related to minority education. As regards the medium of instruction, the Recommendations argue for the use of children’s mother tongue (in this case the minority language) at pre-school, kindergarten and secondary school levels, with a ‘substantial part’ of the curriculum being taught thus in secondary schools. States should create the necessary conditions to these ends. At the tertiary level and in vocational schools, members of national minorities should have access to education in their own language ‘when they have demonstrated the need for it and when their numerical strength justifies it’. Where a national minority has in the recent past maintained and controlled its own institutions of higher learning, the Recommendations state, ‘this fact should be recognized in determining future patterns of provision’.

Reference has already been made to the third document to be included in this section of the inventory, namely *The Rights of Minorities: A Declaration of Liberal Democratic Principles concerning Ethnocultural and National Minorities and Indigenous Peoples*. This document, adopted last year, is unique among those featured in this survey in that it distinguishes between ethno-cultural minorities, national minorities and indigenous peoples. Each category can claim a set of rights, with considerable overlap, of course.

Among the rights of ethno-cultural communities is that of using one’s own language in non-official contexts, and the freedom to practice one’s religion. Specific rights applicable to indigenous peoples within their territories relate to cultural identity and cultural heritage, land rights, self-government, economic development, the environment, and health.

Not surprisingly, the bulk of the Declaration is devoted to the rights of national minorities, the most numerous of the three types of minority groups. Cultural self-determination and full participation in decision-making at national level ‘constitute the absolute minimum of any fair deal for national minorities’, according to the Declaration. A third category of rights, territorial self-government, applies to minorities settled in contiguous areas. Each of these categories will be considered briefly.

On cultural self-determination the Document is unequivocal: 'Every national minority has the right to sovereignly manage the most central factor of its identity: its culture.' Included are matters of language, education, cultural traditions and religion. To be more specific, cultural self-determination means that national minorities have the 'unrestricted right' to use their native languages. This includes unconditionally the right to learn one's own language and use it in public. Where warranted by sufficient numbers, either country-wide or in specific regions, language rights also include the use a native language as the prevalent medium of instruction in schools; the use of minority languages in public services, law courts and legislatures; the availability of laws and other important public legal texts in minority languages; adequate space for minority languages in publicly owned media; and public sign-boards, place and street names etc. in minority languages.

Education, the second essential field of cultural self-determination, involves the right of national minorities to be 'educated in their own culture'. This implies primary education in the mother tongue; the right of national minorities to maintain primary and secondary schools of their own (and to receive public subsidies); the latter right extends to universities where numbers warrant it, otherwise adequate provision for teaching and research in minority cultures must be made to at least one existing university.

As regards cultural traditions and religion, the other areas of cultural self-determination, national minorities must simply enjoy the full and unfettered rights that accompany citizenship.

Turning to participation in decision-making at the central level, the Declaration states that members of national minorities, being full citizens of their country, have every right to participate fully in national politics. Should they so wish, 'they obviously also have the right to practice such participation *as a minority*, i.e. as a group with distinct common interests vis-à-vis the majority', by, for instance, maintaining and voting for special minority parties. Among the measures required to secure minorities' effective participation, are an electoral system of proportional representation; avoiding the inclusion of large numbers of the majority population within constituencies in minority areas (gerrymandering); providing an adequate number of special, additional designated constituencies reserved for the minority electorate; and making positions in the central administration accessible to members of the minority.

Many of the rights of national minorities enumerated above, imply a limited autonomy that is not necessarily defined in terms of a specific territory. Where minorities have settled in contiguous areas, they should, according to the Declaration, have the option of territorial self-government. To be an effective instrument for safeguarding minority rights, autonomy arrangements should meet several requirements. One is that ethnicity (along with historical, topographic and economic criteria) 'should be accepted as a legitimate criterion

when borders are drawn, so that minority populations can be the majority in the areas in which they settle'. Another requirement deals with areas of responsibility to be exercised by autonomous institutions. Besides cultural affairs, the Declaration lists policing, administrative organization, infrastructure and social security as appropriate matters for such devolved control. Financial autonomy, including the power of taxation, is a further requirement. Finally, a central government should in no case have the right to abolish or substantially infringe an existing autonomy status enjoyed by a national minority.

The Declaration acknowledges that autonomy for national minorities may be a contentious option, some critics portraying it as a first step towards secession. However, 'having a larger say in their own affairs will facilitate the accommodation of minorities in the countries they are part of', the Declaration maintains. While not necessarily precluding secession, autonomy 'will considerably reduce its probability'. Autonomy is accordingly regarded as conducive to the creation of a 'cohesive country' in which majority and minority alike can participate as 'equal partners'. Nobody, after all, 'owes allegiance to a country that denies him or her the most fundamental rights'.

Finally, South Africans may wish to reflect on the references to ethnic minorities (in contemporary international vocabulary) in the 1955 *Freedom Charter* of the African National Congress. 'There shall be equal status in the bodies of state, in the courts and in the schools for all national groups and races', the Charter asserts; 'all national groups shall be protected by law against insults to their race and national pride; all people shall have equal rights to use their own language and to develop their own folk culture and customs'.

4. A summary of international standards

The inventory of international documents on minority rights drawn up by inter-state organizations since the end of World War II, contain a set of international standards for both national minorities (as well as indigenous peoples and ethno-cultural groups) and states. For quick reference these are summarized below. The documents produced by non-state bodies are excluded because they lack the authority of the official international instruments. By authority is meant political status in the first place; only a few of the international instruments are legally binding on the signatory states. Even in the absence of legal force, the documents approved by states constitute an international minority rights regime containing basic norms that they are supposed to uphold. In this regard it should be remembered that these standards have been set by inter-state bodies at both the regional (e.g. the European Union and the Conference on Security and Cooperation in Europe) and the global (United Nations) level. The fact that the world body has adopted conventions on

minority rights means that each of the over 190 member states is under at least a moral and political obligation to conform to the rules laid down.

The exclusion from the summary of minority rights documents produced by non-state organizations is by no means to suggest that these could simply be ignored by those dealing seriously with minority issues. These documents reflect the views of elements within international civil society and they may well point the way ahead for inter-state bodies. Thus *The Rights of Minorities: A Declaration of Liberal Democratic Principles concerning Ethnocultural and National Minorities and Indigenous Peoples* - which goes well beyond most of the inter-state documents in proposing ways of giving effect to minority rights – may be intimation of things to come at the official level.

Here, then, drawing on Miall's work, is a summary of existing standards approved by states:

- (1) Members of national minorities are full citizens of their states and make a valuable contribution to the life of society.
- (2) Persons belonging to minorities should have the same rights and duties of citizenship as the rest of the population.
- (3) Friendly relations between peoples, peace, democracy, justice and stability require that the ethnic, cultural, linguistic and religious identity of national minorities be protected by the state, which is also responsible for creating conditions to promote that identity.
- (4) Association with a national minority is entirely voluntary for a person and no disadvantage may result from the exercise of such choice.
- (5) Compulsory assimilation of members of a national minority into the majority population is inadmissible.
- (6) Minority rights are an inseparable part of universally recognized human rights.
- (7) There should be free use of a minority language in private and in public. The latter includes education at all levels in the mother tongue, the use of the language in the media and in communication with and from state authorities.
- (8) There should be a democratic framework within which minority rights are exercised.
- (9) Minorities should participate in public decision-making at all levels of government, especially on matters directly affecting their vital interests.
- (10) States should create conditions and mechanisms for the effective involvement of national minorities in public life and economic activities.
- (11) States should respect the right of minorities to maintain their own organizations and encourage their work.

- (12) Issues concerning national minorities are matters of legitimate international concern and do not exclusively constitute an internal affair of the state in question.

5. International documents featured in the report

Peace of Augsburg, 1555

Treaty of Westphalia, 1648

Treaty of Versailles, 1919

Covenant of the League of Nations, 1920

Atlantic Charter, 1941

Charter of the United Nations, 1945

Universal Declaration of Human Rights, 1948

Convention on the Prevention and Punishment of the Crime of Genocide, 1948

Recommendation of the United Nations Sub-commission on Prevention of Discrimination and Protection of Minority Rights, 1954

International Labour Organization (ILO), *Convention on Indigenous and other Tribal and Semi-tribal Populations in Independent Countries*, 1957

United Nations, *Convention on the Elimination of All Forms of Racial Discrimination*, 1966

International Covenant on Civil and Political Rights, 1966

Conference for Security and Cooperation in Europe (CSCE), *Helsinki Final Act*, 1975

Organization of African Unity, *African Charter of Human and Peoples Rights*, 1981

UNESCO, *Declaration on Race and Racial Prejudice*, 1982

CSCE, *Concluding Document adopted at the Stockholm conference*, 1986

European Parliament, *Resolution on the Languages and Cultures of Regional and Ethnic Minorities*, 1987

ILO, *Convention concerning Indigenous and Tribal Peoples in Independent Countries*, 1989

CSCE, *Concluding Document of the Vienna Meeting*, 1989

CSCE, *Document of the Copenhagen Meeting*, 1990

CSCE, *Charter of Paris for a new Europe*, 1990

Commonwealth of Independent States, Agreement establishing the CIS, 1991

Council of the European Union, Guidelines on the recognition of new states in the former Soviet Union and communist Eastern Europe, 1991

UN General Assembly, *Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities*, 1992

CSCE, *Helsinki Document*, 1992

Council of Europe, *European Charter for Regional or Minority Languages*, 1992

Council of Europe, *Declaration on Human Rights*, 1993

Council of Europe, *European Convention for the Protection of Human Rights and Fundamental Freedoms*, 1993

UN World Conference on Human Rights, *Vienna Declaration*, 1993

Central European Initiative Instrument for the Protection of Minority Rights, 1994

Concluding Document of the Inaugural Conference for a Pact on Stability in Europe, Paris, 1994

Council of Europe, *Framework Convention for the Protection of National Minorities*, 1994

Inter-American Declaration on the Rights of Indigenous People, 1995

World Conference on Linguistic Rights, Barcelona, *Universal Declaration of Linguistic Rights*, 1996

Foundation of Inter-Ethnic Relations, *The Hague Recommendations regarding the Education Rights of National Minorities*, 1996

Liberal Institute of the Friedrich Naumann Foundation, *The Rights of Minorities: A Declaration of Liberal Democratic Principles concerning Ethnocultural and National Minorities and Indigenous Peoples*, 2000.

6. Bibliography

In addition to the documents listed above, the following published sources were consulted:

Åkermark, Athanasia S, *Justifications of Minority Protection in International Law*, Kluwer Law International, The Hague, 1997

Council of Europe, Parliamentary Assembly, *Protection of National Minorities*, Doc. 7899, 8 September 1997

Cuthbertson, Ian M & Leibowitz, Jane (eds), *Minorities: The New Europe's Old Issue*, Institute for EastWest Studies, Prague, 1993

Hannum, Hurst (ed.), *Documents on Autonomy and Minority Rights*, Martinus Nijhoff Publishers, Dordrecht, 1993

Johnston, Darlene M, 'Native rights as collective rights: A question of group self-preservation', in Kymlicka, Will, *The Rights of Minority Cultures* (see below)

Kymlicka, Will, *Multicultural Citizenship: A Liberal Theory of Minority Rights*, Clarendon Press, Oxford, 1995

Kymlicka, Will (ed.), *The Rights of Minority Cultures*, Oxford University Press, Oxford, 1995

Miall, Hugh (ed.), *Minority Rights in Europe: The Scope for a Transnational Regime*, Pinter Publishers, London, 1994

Sisk, Timothy D, *Power Sharing and International Mediation in Ethnic Conflicts*, Carnegie Corporation, New York, 1996

Taylor, Charles, *Multiculturalism and 'The Politics of Recognition'*, Princeton University Press, Princeton, 1992.