

THE PROBLEM OF MINORITIES **IN INTERNATIONAL RELATIONS**

Bonnie C. Brennan
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The purpose of this course is to introduce students to the historical problem of minorities and its contemporary implications. The presence of an ethnic, linguistic or religious minority within the borders of a state obviously has ramifications for nation-building, economic development and the domestic peace. When, however, a violent ethnic conflict involving a minority, particularly a minority related to a kin-state, arises, the conflict can also destabilize an entire region of the world. This course will examine both the domestic and international dimensions of the problem.

This course will also trace the historical origins of the minority problem and look for answers as to why a minority member's ethnic, linguistic or religious identity is so important to him or her and so threatening to host states and their dominant majorities. It will consider the various solutions to the minority problem that have been employed in the past including acculturation, assimilation, population transfers/ethnic cleansing, and genocide. Finally, it will explore the concept of minority rights, its origins and its efficaciousness as a means both of preventing and of resolving ethnic conflict.

Each student will be expected to prepare a paper intended to brief the U.S. Secretary of State or, if he or she is a foreign national, his or her Foreign Minister, about a particular minority problem. As to European students, they may direct their paper at a European institution or a domestic authority. The paper should include an executive summary, a brief account of the origin of the minority the student has selected, the current human rights situation of that minority, the probability that there might be (or has been) an escalation to violence, possible means of preventing imminent conflict or resolving existing conflict, and policy recommendations. (60% of the student's grade.) A one page proposal for the paper will be due on October 6, 2009. The Minorities at Risk Project of the University of Maryland at <http://www.cidcm.umd.edu/mar/> is a valuable tool for selecting a minority and developing a sense of its human rights situation.

Prior to completion of the paper, students will be called upon to make a brief presentation (exactly 10 minutes and a 10 minute Q & A) to their classmates both to inform the class about particular minority situations and to give the class an opportunity to make suggestions as to possible approaches to the minority problem at issue. (25% of the student's grade.) Students will be expected to submit a draft of the executive summary prior to their presentation so that it may be distributed to the rest of the class. This will give other students the opportunity adequately to

prepare for the presentation so that they may make intelligent contributions to the discussion following the presentation. At the start of the semester, we will choose a date for presentations since exchanges between students tend to be more intense when they all make their presentations on the same day.

Finally, to encourage students to do a substantial share of the readings that follow, students will be expected to make contributions to class discussions. (15% of the final grade.) Because the reading load is heavy, students should focus on those readings that will most directly apply to the minority that they have selected. Although they are lengthy tomes, all students should plan to read cover to cover Donald L. Horowitz's Ethnic Groups in Conflict and Will Kymlicka's Liberalism, Community and Culture. Reading both ensures that you understand what the political problem is, how it relates to the individual, and what political and legal solutions there might be.

In addition to a course reader, required texts for this course are:

Richard D. Ashmore, Lee Jussim & David Wilder, Social Identity, Intergroup Conflict, and Conflict Reduction (Oxford University Press, 2001) Paperback (Addressing the concept of, *inter alia*, ethnic identity and its importance to individuals.)

Ted Robert Gurr, Peoples versus States: Minorities at Risk in the New Century (United States Institute of Peace Press, 2000) Paperback (Addressing the current status of minorities around the world.)

Donald L. Horowitz, Ethnic Groups in Conflict (2nd Edition, University of California Press, 2000) Paperback (Addressing, *inter alia*, how ethnic conflicts arise in the first instance.)

Will Kymlicka, Liberalism, Community and Culture (Clarendon Paperbacks, 1991) (A philosophical attempt to wed ethnically-aware solutions with liberalism.)

Will Kymlicka, ed., The Rights of Minority Cultures (Oxford University Press, 1995) Paperback (A selection of readings both for and against ethnically-aware solutions.)

Suggested Reading:

Timothy D. Sisk, Powersharing and International Mediation in Ethnic Conflicts (United States Institute of Peace Press, 1996) Paperback (Addressing the management of ethnic conflicts to bring about peaceful resolution of same.)

COURSE SYLLABUS

Week One: September 8, 2009

I. What is a minority?

A. The international legal definition.

Francesco Capotorti, Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities, U.N. Doc E/CN.4/Sub.2/384/Rev.1, U.N. Sales No. E.78.XIV.1 (1979), pp. 1-15 (Reading No. 1).

B. The nature and origin of ethnic identity.

Lee Jussim, Richard D. Ashmore, & David Wilder, "Introduction," in Social Identity, Intergroup Conflict and Conflict Resolution (Richard D. Ashmore ed. 2001), pp. 1-14.

Marilyn B. Brewer, "Ingroup Identification and Intergroup Conflict," in Social Identity, Intergroup Conflict and Conflict Resolution (Richard D. Ashmore ed. 2001), pp. 17-41.

Thomas Hylland Eriksen, "Ethnic Identity, National Identity and Intergroup Conflict," in Social Identity, Intergroup Conflict and Conflict Resolution (Richard D. Ashmore ed. 2001), pp. 42-68.

Donald L. Horowitz, Ethnic Groups in Conflict (2000), Chapter 2, pp. 55-92.

II. The value of ethnic diversity

A. The parallel to biodiversity.

Dean B. Suagee, "Self-Determination for Indigenous Peoples at the Dawn of the Solar Age," 25 U. Mich. J.L. Reform 671 (1992)(Reading No. 2).

Brian N. Lizotte, “The Diversity Rationale: Unprovable, Uncompelling,” 11 Mich. J. Race & L. 625 (2006) (Reading No. 3).

B. The moral rights of ethnic groups.

Vernon Van Dyke, “The Individual, the State, and Ethnic Communities in Political Theory,” in The Rights of Minority Cultures (Will Kymlicka ed., 1995), pp. 31-56.

C. The cosmopolitan ideal.

Jeremy Waldron, “Minority Cultures and the Cosmopolitan Alternative,” in The Rights of Minority Cultures (Will Kymlicka ed., 1995), pp. 93-119.

III. The costs of diversity.

Ted Robert Gurr, Peoples versus States (2000), Chapters 1-3, pp. 3-104.

Week Two: September 15, 2009

IV. The origin of minorities.

Donald L. Horowitz, Ethnic Groups in Conflict (2000), Chapter 1, pp. 3-54.

A. *Uti possidetis* and the dissolution of empires.

Steven R. Ratner, “Drawing a Better Line: Uti Possidetis and the Borders of New States, 90 A.J.I.L. 590 (1996) (Reading No. 4).

Timothy William Waters, “Contemplating Failure and Creating Alternatives in the Balkans: Bosnia’s Peoples, Democracy, and the Shape of Self-Determination,” 29 Yale J. Intl’l L. 423 (2004) (Reading No. 5).

Aman Mahray McHugh, “Resolving International Boundary Disputes in Africa: A Case for the International Court of Justice,” 49 How. L.J. 209 (2005) (Reading No. 6).

B. Immigration.

Kevin R. Johnson, “Civil Rights and Immigration: Challenges for the Latino Community in the Twenty First Century,” 8 La Raza L.J. 42 (1995) (Reading No. 7).

C. *Res nullius* and the special case of indigenous peoples.

Larry Sager, “Rediscovering America: Recognizing the Sovereignty of Native American Indian Nations,” 76 U. Det. Mercy L. Rev. 745 (1999) (Reading No. 8).

Week Three: September 22, 2009

V. The problem of politically-developed minorities and nation-building.

A. Minorities with their own political and legal systems.

Justice Modibo Ocran, “The Clash of Legal Cultures: The Treatment of Indigenous Law in Colonial and Post-Colonial Africa,” 39 Akron L. Rev. 465 (2006) (Reading No. 9).

Clark B. Lombardi & Nathan J. Brown, “Do Constitutions Requiring Adherence to Shari’a Threaten Human Rights?,” 21 Am. U. Int’l L. Rev. 379 (2005) (Reading No. 10).

William Tetley, “Nationalism in a Mixed Jurisdiction and the Importance of Language (South Africa, Israel and Quebec/Canada),” 78 Tul. L. Rev. 175 (2003) (Reading No. 11).

B. Self-determination and the right of a minority to its own state.

Paul Clark, "Taking Self-Determination Seriously: When Can Cultural and Political Minorities Control Their Own Fate?," 5 Chi. J. Int'l L. 737 (2005) (Reading No. 12).

Bartram S. Brown, "Human Rights, Sovereignty, and the Final Status of Kosovo," 80 Chi.-Kent L. Rev. 235 (2005) (Reading No. 13).

Daniel Fierstein, "Kosovo's Declaration of Independence: An Incident Analysis of Legality, Policy and Future Implications," 26 B.U. Int'l L.J. 417 (2008) (Reading No. 14).

Jorge Martinez-Paoletti, "Rights and Duties of Minorities in a Context of Post-Colonial Self-Determination: Basques and Catalans in Contemporary Spain," 15 Buff. Hum. Rts. L. Rev. 159 (2009) (Reading No. 15).

Week Four: September 29, 2009

VI. The complicated relationship between economics and minorities.

A. Are economic interests the driving force behind ethnic conflict?

Ted Robert Gurr, People versus States (2000), Chapter 4, pp. 105-150.

Donald L. Horowitz, Ethnic Groups in Conflict (2000), Chapters 3-5, pp. 95-228.

B. The relationship between economic pursuits and culture.

Bonnie C. Brennan, The Expansion of Article 27: The Human Rights Committee (Reading No. 16).

Week Five: October 6, 2009

*** PAPER PROPOSALS DUE***

VII. The problem of kin-states.

A. Unilateral, bilateral and multilateral protection of minorities by their kin-states.

Christin J. Albertie, "The Act on Hungarians Living Abroad: A Misguided Approach to Minority Protection," 24 Mich. J. Int'l L. 961 (2003) (Reading No. 17).

Elizabeth Warner, "Unilateral Preferences Granted to Foreign National Minorities by a Kin-State: A Case Study of Hungary's "Status Law," 35 Geo. J. Int'l L. 379 (2004). (Reading No. 18).

Csongor István Nagy, "The Moral of the Hungarian Status Law Saga," 48 (3) Acta juridica Hungarica 295 (2007) (Reading No. 19).

Elizabeth F. Defeis, "Minority Protection and Bilateral Agreements: An Effective Mechanism," 22 Hamline J. Pub. L. & Pol'y 291 (1999) (Reading No. 20).

Rainer Hofmann, "Preferential Treatment of Kin Minorities and Monitoring of the Implementation of the Framework Convention for National Minorities," in The Protection of National Minorities by Their Kin-State (Council of Europe Publishing 2002) (Reading No. 21).

B. Kin-state support for rebellion, irredenta and the fifth column threat.

Donald L. Horowitz, Ethnic Groups in Conflict (2000), Chapter 6, pp. 229-288.

C. Is there a positive role for the kin-state?

Stuart Ford, "OSCE National Minority Rights in the United States: The Limits of Conflict Prevention," 23 Suffolk Transnat'l L. Rev. 1 (1999) (Reading No. 22).

Elsa Stamatopoulou, "Protection of National Minorities and Kin-States: An International Perspective," in The Protection of National Minorities by Their Kin-State (Council of Europe Publishing 2002) (Reading No. 23).

Week Six: October 13, 2009

VIII. Host-states and the amoral solutions they have employed.

A. Genocide.

Convention on the Prevention and Punishment of the Crime of Genocide, 1948 (Reading No. 24).

Donald L. Horowitz, Ethnic Groups in Conflict (2000), Chapters 11-13, pp. 443-559.

Ervin Staub, "Individual and Group Identities in Genocide and Mass Killing," in Social Identity, Intergroup Conflict and Conflict Resolution (Richard D. Ashmore ed. 2001), pp. 159-184.

B. Population transfers/ethnic cleansing.

Kostantinos Tsitselikis, "Exchange of Population: A Paradigm of Legal Perversion," in The Protection of National Minorities by Their Kin-State (Council of Europe Publishing 2002) (Reading No. 25).

Rome Statute of the International Criminal Court, Arts. 5-8 (Reading No. 26).

Week Seven: October 20, 2009

IX. Assimilation/acculturation and individual equality.

A. Developing a single national identity.

Jack Citrin, Cara Wong, & Brian Duff, “The Meaning of American National Identity,” in Social Identity, Intergroup Conflict, and Conflict Resolution (Richard D. Ashmore ed. 2001), pp. 71-100.

Jim Sidanius & John R. Petrocik, “Communal and National Identity in a Multiethnic State,” in Social Identity, Intergroup Conflict and Conflict Reduction (Richard D. Ashmore ed. 2001), pp. 101-129.

B. When the assimilation model does not work.

Jessica Fourneret, “France: Banning Legal Pluralism by Passing a Law,” 29 *Hastings Int’l & Comp. L. Rev.* 233 (2006) (Reading No. 27).

Tara Dickman, Eyes Wide Shut: Searching Beyond What We Can See: On Questioning the Monopoly of the Cultural Approach to Minority Rights in International Law in Light of the November 2005 Riots in France (Master’s Project, NYU, 2007).(Reading No. 28).

Steven Erlanger, “Burqa Furor Scrambles French Politics,” nytimes.com/2009/09/01/world/europe/01france.htm?hp (Aug.31, 2009) (Reading No. 29).

C. Accommodating minorities in heterogeneous societies.

Ted Robert Gurr, Peoples versus States (2000), Chapter 5, pp. 151-194.

Chandran Kukathas, "Are There any Cultural Rights?, in The Rights of Minority Cultures (Will Kymlicka ed. 1995), pp. 228-256.

Week Eight: October 27, 2009

X. The Cultural Mosaic.

A. The politicization of interethnic relations.

Donald L. Horowitz, Ethnic Groups in Conflict (2000), Chapters 7-10, pp. 291-440.

B. The option of constitutional pluralism.

Michael Walser, "Pluralism: A Political Perspective," in The Rights of Minority Cultures (Will Kymlicka ed. 1995), pp. 139-154.

Nathan Glazer, "Individual Rights against Group Rights," in The Rights of Minority Cultures (Will Kymlicka ed. 1995), pp. 123-138.

Michael Hartney, "Some Confusions Concerning Collective Rights," in The Rights of Minority Cultures (Will Kymlicka ed. 1995), pp. 202-227.

C. Rewriting constitutions to resolve interethnic conflict.

Donald L. Horowitz, Ethnic Groups in Conflict (2000), Chapters 14-16, pp. 563-684.

Arend Lijphart, "Self-Determination versus Pre-Determination of Ethnic Minorities in Power-Sharing Systems," in The Rights of Minority Cultures (Will Kymlicka ed. 1995), pp. 275-287.

Ted Robert Gurr, Peoples versus States (2000), Chapter 6, pp. 195-222.

Recommended:

Timothy Sisk, Powersharing and International Mediation in Ethnic Conflicts (1996).

Week Nine: November 3, 2009

XI. The right of access to one's own culture as an individual human right.

A. The importance of ethnic identity to the individual and its role in social conflict.

Robert W. White, "Social and Role Identities and Political Violence," in Social Identity, Intergroup Conflict and Conflict Resolution (Richard D Ashmore ed. 2001), pp. 133-158.

Herbert C. Kelman, "The Role of National Identity in Conflict Resolution," in Social Identity, Intergroup Conflict and Conflict Resolution (Richard D Ashmore ed. 2001), pp. 187-212.

Francesco Capotorti, Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities, U.N. Doc. E/CN.4/Sub.2/384/Rev.1, U.N. Sales No. E.78.XIV.1 (1979), pp. 42-56 (Reading No. 1).

B. The liberal model, the communitarian view, and a synthesis.

Will Kymlicka, Liberalism, Community and Culture (1991).

Week Ten: November 10, 2009

XII. The concept of minority rights.

A. In the Ottoman Empire.

Will Kymlicka, Multicultural Citizenship (1995) (Reading No. 30).

B. The League Minority Rights System.

Note by the Secretary General, The International Protection of Minorities under the League of Nations, U.N. Sub-Commission on the Prevention of Discrimination and the Protection of Minorities, U.N. Doc E/CN.4/Sub.2/6 (1947) (Reading No. 31).

Francesco Capotorti, Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities, U.N. Doc. E/CN.4/Sub.2/384/Rev.1, U.N. Sales No. E.78.XIV.1 (1979), pp. 16-26 (Reading No. 1).

C. The U.N. and the Minorities Treaties.

Secretary General, Study of the Legal Validity of the Undertakings Concerning Minorities, U.N. Commission on Human Rights, 6th Sess., U.N. Doc. E/CN.4/367 (1950) (Reading No. 32).

Francesco Capotorti, Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities, U.N. Doc. E/CN.4/Sub.2/384/Rev.1, U.N. Sales No. E.78.XIV.1 (1979), pp. 26-31 (Reading No. 1).

Week Eleven: November 17, 2009

XIII. The U.N. Human Rights System.

A. The principle of nondiscrimination and its limitations.

International Convention on the Elimination of All Forms of Racial Discrimination, 1966 (Reading No. 33).

UNESCO Convention Against Discrimination in Education, 1960 (Reading No. 34);

ILO Discrimination (Employment and Occupation) Convention, 1958 (Reading No. 35).

B. Article 27 of the Civil and Political Covenant.

International Covenant on Civil and Political Rights, 1966 (Reading No. 36).

Francesco Capotorti, Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities, U.N. Doc. E/CN.4/Sub.2/384/Rev.1, U.N. Sales No. E.78.XIV.1 (1979), pp. 31-41, 89-99 (Reading No. 1).

C. The Minority Rights Declaration.

Francesco Capotorti, Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities, U.N. Doc. E/CN.4/Sub.2/384/Rev.1, U.N. Sales No. E.78.XIV.1 (1979), pp. 102-103 (Reading No. 1).

Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, 1992 (Reading No. 37).

Asbjorn Eide, Commentary to Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, U.N. Sub-Commission on the Promotion and Protection of Human Rights, U.N. Doc. E/CN.4/AC.5/2001/2 (2001) (Reading No. 38).

Week Twelve: November 24, 2009

XIV. Types of minorities and their special problems.

A. Ethnic minorities and cultures.

Francesco Capotorti, Study on the Rights of Persons Belonging to

Ethnic, Religious and Linguistic Minorities, U.N. Doc. E/CN.4/Sub.2/384/Rev.1, U.N. Sales No. E.78.XIV.1 (1979), pp. 57-68, 99-100 (Reading No. 1).

1. The problem of cultural relativity and the tolerance paradox.

Ruth Benedict, "A Defense of Moral Relativism," in Vice and Virtue in Everyday Life (Christina Hoff Sommers ed. 1985), pp. 111-119 (Reading No. 39).

W.T. Stace, "Ethical Relativism: A Critique," in Vice and Virtue in Everyday Life (Christina Hoff Sommers ed. 1985), pp. 120-133 (Reading No. 40).

Mary Midgley, "Trying Out One's New Sword," in Vice and Virtue in Everyday Life (Christina Hoff Sommers ed. 1985), pp. 134-140 (Reading No. 41).

2. Illiberal minorities and inhumane practices.

Leslie Green, "Internal Minorities and Their Rights," in The Rights of Minority Cultures (Will Kymlicka ed. 1995), pp. 256-272.

Daina C. Chiu, "The Cultural Defense: Beyond Exclusion, Assimilation, and Guilty Liberalism," 82 Calif. L. Rev. 1053 (1994) (Reading No. 42).

Layli Miller Bashir, "Female Genital Mutilation in the United States: An Examination of Criminal and Asylum Law," 4 Am. U. J. Gender & Law 415 (1996) (Reading No. 43).

3. A minimum standard of human rights.

Guyora Binder, “Cultural Relativism and Cultural Imperialism in Human Rights Law, 5 Buff. Hum. Rts. L. Rev. 211 (1999) (Reading No. 44).

B. Religious minorities.

Francesco Capotorti, Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities, U.N. Doc. E/CN.4/Sub.2/384/Rev.1, U.N. Sales No. E.78.XIV.1 (1979), pp. 68-75, 101-102 (Reading No. 1).

Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, 1981 (Reading No. 45).

1. Liberal theory and religious pluralism.

Steven H. Shiffrin, “The Pluralistic Foundation of the Religion Clauses,” 90 Cornell L. Rev. 9 (2004) (Reading No. 46).

2. Liberal education and religion.

Nomi Maya Stolzenberg, “‘He Drew a Circle that Shut Me Out’: Assimilation, Indoctrination, and the Paradox of a Liberal Education,” 106 Harv. L. Rev. 581 (1993) (Reading No. 47).

3. Inadequacy of courts and science as mediators.

Fred M. Frohock, Healing Powers: Alternative Medicine, Spiritual Communities, and the State (1992), pp. 241-273 (Reading No. 48).

Week Thirteen: December 1, 2009

C. Linguistic Minorities.

Francesco Capotorti, Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities, U.N. Doc. E/CN.4/Sub.2/384/Rev.1, U.N. Sales No. E.78.XIV.1 (1979), pp. 75-89, 100-101 (Reading No. 1).

Paul Conor Hale, "Official, National, Common or Unifying: Do Words Giving Legal Status to Language Diminish Human Rights?", 36 G. J. Int'l & Comp. L. 221 (2007) (Reading No.49).

Marina A. Torres, "Inside Looking Out: An Application of Internaitonal and Regional Linguistic Protections to the U.S. Spanish-Speaking Minority," 87 Neb. L. Rev. 599 (2009) (Reading No.50).

D. Indigenous Peoples.

UN Declaration on the Rights of Indigenous Peoples, 2007 (Reading No. 51).

ILO Indigenous and Tribal Peoples Convention, 1989 (Reading No. 2).

Viniyanka Prasad, "The UN Declaration on the Rights of Indigenous Peoples: A Flexible Approach to Addressing the Unique Needs of Varying Populations," 9 Chi. J. Int'l L. 297 (2008) (Reading No.53).

Siegfried Wiessner, "Indigenous Sovereignty: A Reassessment in Light of the UN Declaration on the rights of Indigenous Peoples," 41Vand. J. Transnat'l L 1141 (2008) (Reading No.54).

Week Fourteen: November 8, 2009

XV. Conflict prevention and minority rights.

A. The European minority protection system.

Final Act of the Helsinki Conference, 1975 (Reading No. 55).

European Charter for Regional or Minority Languages, 1992 (Reading No. 56).

European Framework Convention for the Protection of National Minorities, 1995 (Reading No. 57).

Protocol No. 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, 2000 (Reading No. 58).

B. Risk assessment and early intervention.

Mandate of the CSCE High Commissioner on National Minorities, 1992 (Reading No. 59).

Steven R. Ratner, "Does International Law Matter in Preventing Ethnic Conflict?," 32 N.Y.U. J. Int'l L. & Pol. 591 (2000) (Reading No. 60).

Ted Robert Gurr, People versus States (2000), Chapters 7-8, pp. 223-288.

C. Do ethnically aware solutions actually work?

Angela M. Banks, "Moderating Politics in Post-Conflict States: An Examination of Bosnia and Herzegovina," 10 UCLA J. Int'l L. & For. Aff. 1 (2005) (Reading No.61).

Marie-Joëlle Zahar, "The Dichotomy of International Mediation and Leader Intransigence: The Case of Bosnia and Herzegovina," in Power Sharing (Ian O'Flynn & David Russell, eds. 2005) at123 (Reading No.62).

XVII. Cultural, religious and linguistic blocs at the global level: The Asian values debate as a case study.

Michael C. Davis, "Constitutionalism and Political Culture: The Debate over Human Rights and Asian Values," 11 Harv. Hum. Rts. J. 109 (1998) (Reading No. 63).