The need for a generalised application of the minorities regime in Europe

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The experience of the interwar years shows that the success of a European regime for the protection of minorities depends on its geographical scope of application. In 1919, a number of minority treaties were imposed on Eastern and Central European states, while other states with minorities on their territory were exempt from similar obligations. The system's lack of generality has been considered as one of its most serious defects. It diminished the moral authority of the regime, stimulated resentment among those states which were subject to the treaties and provided a justification for non-application.

This article examines to what extent the principal defect associated with the interwar system has been reproduced in modern times. After a survey of the League of Nations and UN system for the protection of minorities, the following chapters will focus on the recent policies of regional organisations, including the Organisation for Security and Co-operation in Europe (OSCE), the European Union and the Council of Europe.

During the post-cold war period, most regional organisations have pursued an ambiguous policy when it comes to promoting the application of minority rights in Europe. Considerable political pressure has been exerted on Eastern (rather than all) states to ensure that international commitments are implemented at the national level. As a result, many of the new democracies have recently adopted measures to protect minorities, while few of the old democracies have taken significant steps in this direction. This initial trend will hopefully be corrected by the Framework Convention for the Protection of National Minorities, adopted by the Council of Europe in 1994. Despite its shortcomings, the Framework Convention may contribute to a wider application in practice of the regime for the protection of minorities in Europe — upon the condition that the convention is ratified by a large number of states.

From the League of Nations to the United Nations

After the First World War, The United States President Woodrow Wilson proposed to insert a general minority provision in the League of Nations Covenant, which would be applicable to all member states without distinction. British opposition to the article made its inclusion impossible, and thus any form of minority rights passed out of the general sphere of application. The
final outcome of the various proposals submitted at the Peace Conference was
the conclusion of minority treaties by the Allied Powers with the new or
enlarged states (Poland, Yugoslavia, Czechoslovakia, Romania and Greece).
Special clauses on the protection of minorities were also included in the peace
treaties of certain defeated powers (Hungary, Bulgaria, Austria and Turkey).
Another group of states issued general declarations before the Council of the
League of Nations (including Albania and the Baltic states).

Before agreeing to sign the treaties, most of the concerned states objected
to the discrimination between them and other members of the League. They
considered that the imposition of minority obligations on a few countries only
relegated them to second-class status and represented an unwarranted infrin-
gement of their sovereignty.

In response to this critique, the President of the Peace Conference,
Clemenceau, sent an explanatory letter to the Polish President, Paderewski.
He contended that the established procedure for the recognition of new or
enlarged states required that such states undertake to comply with certain
principles of government (and he mentioned the 1878 Berlin Conference as
one of the precedents in this respect).\(^3\) Clemenceau added that the Polish
nation owed the recovery of its independence to the sacrifices and endeavours
of the Great Powers. As the security of the Polish territories depended, to a
large extent, on the resources afforded to the League of Nations by the Great
Powers, the latter had an obligation to secure certain essential rights to
minorities living in Poland.\(^4\)

Furthermore, some of the major powers claimed they had not signed any
minorities treaties for the simple reason that they had no minorities on their
territory. ‘To find minorities in France, they would have to be created in
imagination’, said the French representative at the thirty-seventh session of the
League Council. After referring to the controversy whether Breton was a
dialect or a language, he turned to the British representative: ‘Take the case of
some ill-humoured Welshman posing before the League of Nations as the
champion of Wales. Would the League of Nations in such a case play its
appointed part? For its duty was not to stir up domestic strife but to remove
the causes of external disputes.’ The British delegate replied that he was ‘not
afraid of the obstreperous Welshman, because he did not exist, but the
proposal to extend the suggested procedure to the whole world and to make
the League of Nations responsible for supervising its application would impose

\(^3\) The Treaty of Berlin of 13 July 1878, concluded between Germany, Austria, Hungary,
France, Great Britain, Italy, Russia and Turkey, abolished any difference of treatment on
religious grounds in the newly created Balkan states. By the terms of articles 5 and 44 of
the Treaty, the Contracting Parties declared that they would recognise Romania and
Bulgaria only if the rights of religious minorities were guaranteed.

\(^4\) Tennent Harrington Bagley, *General Principles and Problems in the International Protec-

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