Recent Books on Human Rights and Groups

Book Reviews


This is a rich book. The editors bring together commentators with substantial expertise in the research and practice of minority protection to assess the usefulness of the Framework Convention for the Protection of National Minorities (FCNM) in Europe. The book has 15 chapters, which roughly divide into five sets. The first grouping (De Witte, Eide, Van Dijken, Korkeakivi) answer directly the central question of the volume which asks whether the FCNM is a useful pan-European instrument. The second grouping (Marko, Ringelheim and Clement) analyse the existence (or otherwise) of a common constitutional approach to minority protection in Europe, nationally and transnationally. The third grouping (Spiliopoulou Akermark, Henrard and Kurban) explore the added value, if any, of the FCNM to European standards on minority rights protection. The fourth grouping (Verstichel and Hofmann) map out the personal and substantive scope of the Convention. Finally, to complement the large number of contributions in the collection which compares the FCNM to the European Convention on Human Rights (ECHR), the chapters by Palermo, Drzewicki and De Schutter explore the relationship of the FCNM with national courts, the Organization for Security and Co-operation in Europe (OSCE) and the European Union (EU).

As is evident from this, the FCNM is examined through a number of lenses, with the aim being to present “a complete picture of the significance of the Framework Convention within the broader context of the evolving European minority protection landscape” (p. 2). This book undoubtedly achieves this broad aim, whilst also producing a level of depth and quality which places it amongst the current leading scholarship analysing the FCNM. Each chapter provides a rich, analytical perspective on the FCNM and the book as a whole is grounded in the European, domestic and international contexts, which makes more convincing the conclusions drawn on the usefulness of the Convention in question.
For the most part throughout this edited collection, the FCNM is analysed in light of its status as an international legal instrument within Europe. As far as international instruments on minority protection go, the FCNM embodies a number of characteristics not uncommon to international legal instruments: it permits reservations and declarations restricting its scope; many of its provisions are phrased weakly; and it does not establish a traditional judicial mechanism. The value of international instruments is, however, as this book demonstrates, their ability to grow into strong (legal and rhetorical) forces of operation. Thus, ten years after its inception, De Witte describes the Convention as “a central pillar of the European minority rights system” (p. 1). This central position is a consequence of the “dynamic monitoring practice of its Advisory Committee” and the willingness of a number of European states to “play the game” (p. 1). Moreover, as the book also demonstrates, another value of such softly phrased international instruments is that they encompass flexibility – ironically an extremely useful, perhaps even vital, element of an international strategy for the protection of minorities. Thus, the absence of a definition of the term national minority enables the Advisory Committee of the Framework Convention to encourage contracting parties to apply protection to groups which fall outside of the term “national minority” as defined by the state or as traditionally denoted by international law (Eide; Verstichel). Such flexibility need not be lamented in an area which, as pointed out by Marko, is susceptible to a range of diverse national constitutional responses.

Marko, Ringelheim and Clement examine these diverse constitutional models to varying degrees to assess the compatibility of national models with minority protection in international (European) law. Marko demonstrates that an attempt is made within Europe, especially within the case law of the European Court of Human Rights (ECtHR), to combine both individual and group rights. The European Court has thus required states to protect cultural diversity in the public sphere, whilst also requiring states to create conditions necessary for diversity to be exercised. In view of this, some national constitutional models (for example, the French and German) are incompatible with the European consensus. Ringelheim likewise shows that not all forms of diversity in national constitutions (Belgium, Spain or Slovenia) meet international standards on minority protection. Nonetheless, the author also indicates the capability of national constitutions to embody layers of pluralism which simultaneously express unity and diversity.

The chapters on the nature of the added value of the FCNM are extremely thought provoking. For Akermark, the uniqueness of the FCNM lies in the fact that it adds value to nothing: “nothing of its kind existed at the time of its adoption or has been produced later on” (p. 73). In contrast, Henrard demonstrates that the FCNM embodies similar principles to the European Convention on