The Protection of Minorities and Indigenous Peoples Respecting Cultural Diversity

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I. Introduction

There have been recent developments in international law and politics which have influenced the legal protection of groups and under the auspices of the United Nations, the protection of indigenous peoples has made some progress.

The Declaration on the Rights of Indigenous Peoples,1 drafted in 1993, was adopted by the Human Rights Council in its first session in June 2006 and was forwarded to the General Assembly for adoption.2 This may also give rise to a further strengthening of the rights of indigenous peoples in treaty law. Compared to this development, the instruments for the protection of minorities have not changed much the last decade. The Framework Convention for the Protection of National Minorities of the Council of Europe3 is still the most detailed legal instrument on the international level with the most effective system of implementation and monitoring.

Another development influencing the situation of groups is the growing importance of cultural diversity in international law. The notion plays a role in the debates on migration and pluralistic societies and in the debates on the relation between culture and trade. In treaty law, the Convention on the Protection and Promotion of the Diversity of Cultural Expressions of 20054 paves the way for, at least, a change of interpretation of existing rules.5 The preamble affirms that “cultural diversity is a defining characteristic of humanity”. Acknowledging cultural diversity between states or within a state encourages a different view on the protection of groups.

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2 Resolution 2006/2 of 29 June 2006.
3 ETS No. 157. See also under V. 3.