The EU and Minority Protection in Central and Eastern Europe: A Case Study of the Baltic States

Dissertation submitted to Jawaharlal Nehru University

in partial fulfillment of the requirements

for the award of the degree of

MASTER OF PHILOSOPHY

SHREYA PANDEY

CENTRE FOR EUROPEAN STUDIES

SCHOOL OF INTERNATIONAL STUDIES

JAWAHARLAL NEHRU UNIVERSITY

NEW DELHI-110067

2009

Centre for European Studies
School of International Studies
Jawaharlal Nehru University, New Delhi-110067

Tel.: 26704148, Fax: 91-11-26741586, 26742592

Date: 21 July 2009

DECLARATION

I declare that the dissertation entitled "**The EU and Minority Protection in Central and Eastern Europe: A Case Study of the Baltic States**" submitted by me in partial fulfillment of the requirements for the award of the degree of **MASTER OF PHILOSOPHY** of Jawaharlal Nehru University is my own work. The dissertation has not been submitted for any other degree of this University or any other university.

SHREYA PANDEY

CERTIFICATE

We recommend that this dissertation be placed before the examiners for evaluation.

Prof. UMMU SALMA BAVA

(Chairperson, CES)

CHAIRPERSON
Centre for European Studies
School of International Studies
Jawaharlal Nehru University
New Delhi - 110067

Prof. SHASHI KANT JHA

(Supervisor, CES)

Professor
Centre for European Studies
School of International Studies
Jawaharlal Nehru University
New Delhi - 110067

ACKNOWLEDGEMENT

I am indebted to my supervisor Professor Shashi Kant Jha for his perseverance in helping my dissertation see the light of the day. He gave the optimum freedom and space due to a research scholar and gave me immensely valuable advice on all fronts.

I am grateful to the staff of Jawaharlal Nehru Central Library, JNU-EXIM Bank Library, the Institute for Defence and Strategic Analysis and the Rembrandt Library for helping me access a wealth of relevant information for my dissertation topic.

I thank Sudheer, Malini, Seema, Rajiv, Santosh, Vinod, Karuna, Shakti, Priyadarshini, Antara, Abira, Avinash, Priya, Divya, and Parinita who helped me in ways more than one in my research.

I consider myself blessed for the unconditional love of my parents and my brother Shashwat who have supported me in the course of striving to achieve every milestone of my life.

Shreya

Shreya Pandey

CONTENTS

ACRONYMS

CERD	Committee on the Elimination of Racial Discrimination
COE	Council of Europe
CSCE	Conference on Security and Cooperation in Europe
EC	European Commission
ECHR	European Convention on Human Rights
ECRI	European Commission against Racism and Intolerance
EU	European Union
FCNM	Framework Convention for the Protection of National Minorities
HCNM	High Commissioner on National Minorities
NATO	North Atlantic Treaty Organisation
NHRO	National Human Rights Office
OSCE	Organisation for Security and Cooperation in Europe
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organisation

List of Maps and Tables

Maps

Tables

CHAPTER 1

INTRODUCTION

The following chapter makes an attempt to define the framework in which the study has been conducted. It tries to make the issues at hand comprehensible by providing a background to the study and mentions the definition, rationale and scope of the study undertaken. It takes us through the expanse of literature available on the subject and justifies the ground for further research.

I - Background

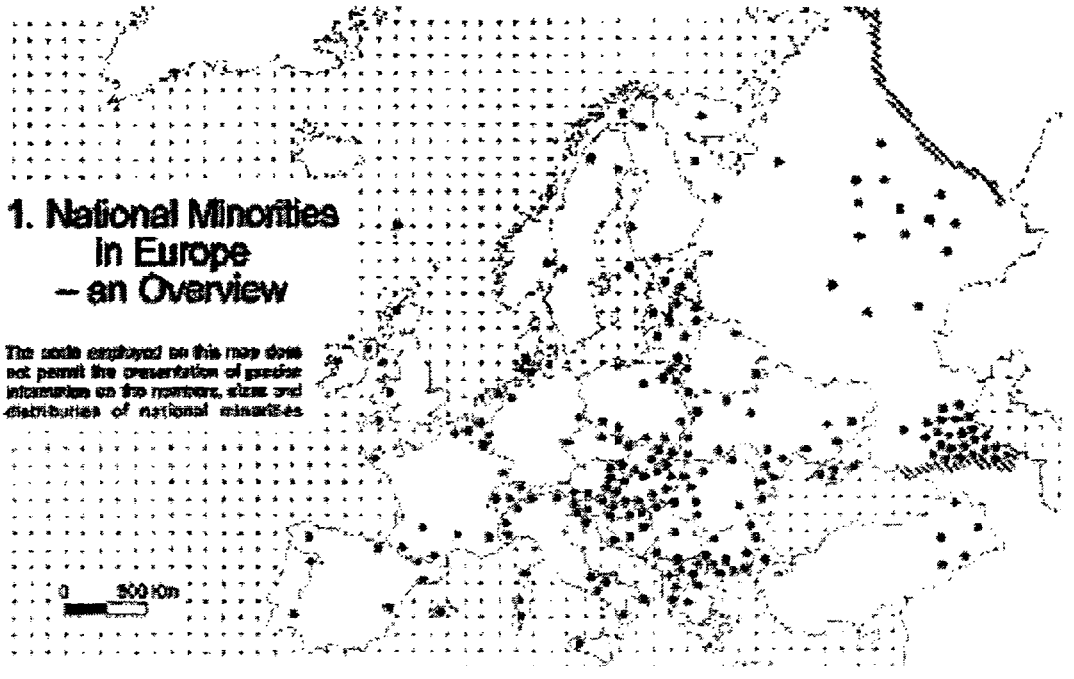
The European Union is a political and economic union of states which has steadily and painstakingly persevered towards increasing the number of states within its fold. The result of its efforts has been the significant increase in the number of member-states from six to twenty-seven.

The enlargement of the European Union took place in successive waves with the biggest addition having been made on 1st May 2004 when ten countries belonging to Central and Eastern Europe joined the EU. This wave of enlargement came to be aptly known as the big bang enlargement in popular parlance. Hence the European Union welcomed Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia in the fifth phase of enlargement. It was the largest single addition to the EU in terms of people and landmass and it also happened to be the smallest enlargement in terms of GDP. The lack of development in these countries was a cause of concern for some of the old member-states who placed temporary restrictions on travel and the right to work on the citizens of the countries of Eastern Europe (European Commission).

A unique feature of European politics has been the internationalization of national minority rights policies. Europe consists of Wilsonian nation-states whose political borders do not always correspond with ethnic borders which has made it vulnerable to ethnic conflicts over a very long time in history. Ethno-national tensions have said to have escalated with the coming down of the iron curtain. There happened to be a diffusion of discourse on minority rights among academics, non-governmental

organizations and policy makers in order to help ease these tensions by putting forth viable solutions for dealing with the quagmire of conflicts pertaining to minorities.

Map 1: National Minorities in Europe



Source : www.gfb.it/3 dossier/eu-min/autonomy-eu.html

The term 'national minority' is vaguely defined in specialized literature as well as in political debate. The United Nations defines the term minority as a community which is settled in a compact or dispersed manner on the territory of a state and whose members are citizens of that state and their number is smaller as compared to that of the rest of the population of that state. They have ethnic, linguistic or cultural features which are different from the rest of the population of the state and the members of this community are motivated and inspired by the will to safeguard these features.

Various terms are commonly used with different connotations in the area of European research and debate on minority protection. The most common term is 'ethnic group' or 'Volksgruppe' that mainly refers to ethnic communities divided by national borders from the fellow members of their own community. A minority is designated as national if it shares its cultural identity with a larger community that

forms a national majority elsewhere. Hence the Germans in Denmark, the Danes in Germany, the Hungarians in Romania, and the Romanians in Hungary are considered to be national minorities. In contrast to national minorities, ethnic minorities refer to persons belonging to those ethnic communities which do not constitute the majority of the population in any state and also do not form their own nation-state elsewhere. The Raetoromanians in the Alps, the Celts or the Gaelic speakers in North-western Europe, the Frisians at the North Sea, the Catalans in South-western Europe and a considerable chunk of the population in Eastern Europe can be bracketed under the category of ethnic minorities. Ethnic minorities are sometimes referred to as 'groups speaking lesser used languages' in official parlance. The principle distinctive cultural feature is language and thus reference is often made to groups as being a linguistic minority.

There is the absence of a decisive dominance of religious and caste related minorities in Europe unlike South Asia but in a few cases the national character of a minority is derived from an identity construction based on religious issues as in the case of the Bosniaks in Bosnia and the Catholic Irish in Ulster (Benedikter 2006).

Table 1: Minorities and European Integration

Minorities and European Integration				
The EU and its Phases of Enlargement	Inhabitants	Minorities	Members of Minorities	Share of Minorities in Total Population in %
	In 1000s	Absolute number of minorities	In 1000s	
1. EU-15 2003	375.418	73	32.138	8,6
2. EU-25 2004	450.559	156	38.174	8,5
3. EU-27 (2007)	480.190	187	42.306	8,8
Europe (39 states)	768.698	329	86,674.000	11,45

Source: Christoph Pan/Beate S. Pfeil (2003), National Minorities in Europe, Vienna, ethnos.

The Council of Europe chose to simplify the terminology and decided to make use of the expression 'national minority' in a representative manner in view of the difficulties faced in finding precise substitutes for the great variety of terms in all the

European languages. The notion of minority protection in Europe ensures all the minorities of observance of the principle of equality before law and in all areas of social, political and cultural life, freedom to develop their own culture, tolerance and intercultural dialogue, freedom of association, the right to manifest religious beliefs, free access to the media and use thereof, a series of language freedoms such as the right to use the minority language in private and public life, the right to use surnames and first names in the minority language, the right to education and the right to learn the minority language, the right to effective participation in cultural, social and economic life in public affairs, the prohibition of forced assimilation and the right to trans-frontier contacts (Council of Europe 2001).

The Parliamentary Assembly of the Council of Europe in its Recommendation 1201 has defined "national minority" as:

> ...a group of persons in a State who: a) reside in the territory of that State and are citizens thereof, b) maintain long-standing firm and lasting ties with that state, c) display distinctive ethnic, cultural, religious or linguistic characteristics, d) are sufficiently representative, although smaller in number than the rest of the population of the State or of a region of that State, and e) are motivated by a concern to preserve together that which constitutes their common identity, including their culture, their traditions, their religion or their language.

The post-communist states of Eastern Europe who were willing to become an integral part of the European Union were required to fulfil the conditions laid down in the Copenhagen Criteria put forth by the European Council in 1993. The conditions to be met by the states wishing to accede to the European Union included the presence of a functioning market economy, adherence to the aims of a political, economic and monetary union, appropriate adjustment of its administrative structures, stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities.

The requirement for the codification of minority rights standards came to be felt acutely as international organizations such as the European Union and the North Atlantic Treaty Organisation proclaimed respect for minority rights to be a fundamental European value which consequently led minority protection to become a pre-condition for accession to the EU. The need to transfer political powers to the Union in order to harmonize minority protection principles, laws and politics towards

ethnic minorities became a central issue. Thus, minority rights became as important as holding of democratic elections and the functioning of free markets in the process of enlargement of the European Union.

The Baltic states of Estonia, Latvia and Lithuania are parliamentary democracies with unicameral parliaments that are elected by popular vote to serve four-year terms. The Baltic States have declared the restoration of the sovereign nations that existed in 1918-1940 and have thus emphasized upon the contention that Soviet domination over the Baltic nations during the Cold War period ought to be condemned as having been an illegal occupation and annexation. The assault of the Soviet Union in 1940 on the Baltic States and the drastic changes in the demography of the area caused by large-scale migration in the aftermath of the Second World War caused fears of ethnic extinction among the titular groups and thus strengthened nationalistic emotions. The Baltic States chose integration with Western Europe as their main strategic goal and consequently managed to acquire the membership of the North Atlantic Treaty Organisation and that of the European Union. A very shaky ethnic balance (62% ethnic Estonians in Estonia, 52% ethnic Latvians in Latvia and 80% ethnic Lithuanians in Lithuania and the overwhelming majority of non-Balts are Russian speakers) in the Baltic States creates a constant fear of violent inter-ethnic clashes. On the other hand, the legitimization of ethnic domination through citizenship, language policies and cadre politics creates long term obstacles to the development of inclusive democracy. These factors necessitate the issue of minority protection to be given utmost importance in the Baltic States (Encyclopedia Britannica 2009).

It has been extremely difficult to coordinate a unified policy pertaining to minority rights in Europe as each European country has a distinct legal culture which made it an insurmountable task to find common patterns or agree on a common language guaranteeing minority rights. An attempt to overcome this impediment which emerged at an early stage was that international lawyers chose to expand and work upon universally acceptable international laws and did not make efforts to unify the highly divergent national laws pertaining to minority rights.

It has been realized that minority protection is about much more than the requirement to post bilingual street signs in areas dominated by national minorities

and the offer of mother-tongue education. The debate on minority protection is no longer limited to the trading of goals of self-determination as opposed to that of the respect for culture. It has gained unprecedented prominence as the discourse on minorities of Central and Eastern Europe has reached another level on account of its involvement with the aim of securing the more democratic goal of effective participation in politics and elections that affects their lives as it seems to be the most genuine conduit through which they can seek the redressal of their grievances and work towards their upliftment.

II - Definition, Rationale and Scope of the Study

This study shall try to grasp the nature of the impact of the European Union in the states of Central and Eastern Europe with regard to the issue of safeguarding minorities. The study has been undertaken to fathom as to whether the influence of the European Union has succeeded in increasing the levels of minority protection in these states and whether a genuine progress is being made towards bringing about the amelioration of the minorities in every possible way. The European Union made use of the carrot and stick policy to ensure that the Central and East European states confirm to the minority clause provided in the Copenhagen Criteria. It simultaneously made efforts for dispensing justice to the minority groups by the implementation of laws through its various agencies and by means of the legal mechanism of the state. The study shall therefore, try to examine the quality and credibility of minority protection available to the minority groups of the countries of Central and Eastern Europe and critically analyze the resultant product of the endeavours made by the EU in the field of minority rights in this region.

There has been a phenomenal increment in the salience accorded to the issue of minority protection in states of Central and Eastern Europe since the accession negotiations for acquiring the membership of the European Union started. This has led to a metamorphosis in the status of the minorities particularly in the political sphere which has added numerous dimensions to the minority identity that they assert and project to the world. Nevertheless, numerous ambiguities and loopholes in the laws aimed at the alleviation of the sufferings of the minorities create gigantic impediments towards guaranteeing complete protection to these groups. Thus there seems to be an obvious requirement to study the entire gamut of issues that facilitate

and hamper their protection in order to correctly comprehend the real status of minorities which emerges from the complex interplay of numerous forces at work with the European Union being the most influential and effective among them.

The proposed study is desirable on account of the fact that most studies concerned with the role of the European Union in the field of minority protection in the states of Central and Eastern Europe have focused on very selective aspects and thus the expertise on the issue has more often than not been extremely dispersed and the opportunities for synergies have been missed. Thus, there exists the need to undertake the present study and analyze and address the issue of minority protection in a comprehensive and integrated manner.

III - Research Questions

The study shall try to answer the following research questions:

1. Can the collective rights of minority cultures be considered to be consistent with liberal democratic principles?

2. What prompted the European Union to give unprecedented salience to minority protection in the course of negotiations for accession of countries of Central and Eastern Europe to the EU?

3. Has the incentive to be supportive towards the minorities declined in states of Central and Eastern Europe now that the goal of membership to the EU has been achieved?

4. To what extent does the EU determine the stance taken by the states of Central and Eastern Europe on the question of minorities?

5. Has the EU been successful in bringing about considerable tangible change in the status of minorities in Central and Eastern Europe?

IV - Hypotheses

The following hypotheses shall be tested in the study:

1. The pro-active attitude of the European Union has led to the betterment of the status of the minorities in the states of Central and Eastern Europe.

2. The role of the European Union in the Central and East European states has led to the lessening of acrimony between the majority group and the different minority groups.

3. The freedom and space promised and provided to the minority groups during and immediately after the consummation of negotiations for accession to the European Union have remained intact in the post-accession period in the Central and East European states.

V - Research Methods

Reference to all the relevant material pertaining to the issue of protection of minorities in states of Central and Eastern Europe has been made after which the matter has been organized under the main themes that are intended to be discussed and comprehended in the study. The proposed study is based on facts and supported by the theoretical premise of liberalism which states that social arrangements must be in accordance with principles which persons can reasonably propose as a basis for mutual informed agreement and it ought to be justifiable by all as this shall in turn manifest the respect for reasonableness of others. The study is descriptive and analytical in nature.

The research undertaken involves the use of data collected both from primary and secondary sources. Primary sources include documents and reports released by governments and various organs of the European Union. Secondary sources include research work done by experts and organizations available in books and academic journals, commentaries and news items from newspapers and internet sources. The attempt to arrive at a conclusion has been made by beginning the proposed study with certain general premises. Hence, the technique applied for the study is deductive in nature and consequently it does not involve the process of conjuring up new data.

VI - Scheme of Chapters

The study has been organized into the following scheme of chapters:

Chapter 1: Introduction

This chapter gives an insight into the exact area of research delved into and enables one to decode the rationale, intent and purpose behind the research undertaken. It

deals with the theoretical foundations upon which the research is based and clearly explains in the course of this process that the entitlement to a universal right to assert one's ethnic identity is justified.

Chapter 2: EU in the Realm of Minority Protection

The chapter traces the historical evolution of the concept of minority protection and brings to light the logic and reason that prompted the EU to give unprecedented currency to the protection of minorities in the states of Central and Eastern Europe during the enlargement negotiations. It examines in detail the role and the degree of effectiveness of the various legal instruments utilized by the EU in the enforcement of the norms and rules pertaining to the rights of the minorities. It also seeks to ascertain the extent to which the EU has introduced the element of seriousness and compulsion with which the governments of the states of Central and Eastern Europe are supposed to deal with the issues of all the minorities inhabiting their states.

Chapter 3: The Relevance of Minority Protection in Central and East European Countries

The chapter seeks to examine as to whether the engagement with minority rights in the East European countries in the manner prescribed by the European Union has turned out to be a boon or bane for these countries. It also tries to analyze the net losses or benefits accrued to the minority groups of these countries by means of the tremendous increase in the avenues for the redressal of their grievances made available to them within the ambit of the European Union. It tries to understand the true nature of the thrust provided by the EU towards the emergence of a new avatar of the minority groups which has come into prominence soon after recognizable attempts were made by the states of Central and Eastern Europe to fulfil the conditions related to the minority clause included in the Copenhagen Criteria of negotiation for gaining entry into the EU.

Chapter 4: Minority Rights Protection in the Baltic States: A Case Study of Estonia, Latvia and Lithuania

The chapter makes an attempt to understand the entire gamut of events that have made the issue of minority rights extremely sensitive in this part of Europe. It identifies the strain among the various minority groups that inhabit the region and examines the

mechanisms that have been evolved by the Baltic States to deal with the hostilities and injustices inflicted upon the minorities under the tutelage of the European Union which proclaims itself to be the torchbearer of the protection of the rights of the minorities.

Chapter 5: Conclusion

This chapter would consist of the summary of the findings of the study and the verification of the hypotheses.

VII -The Theoretical Premise

The case of minorities has been examined extensively through the prism of liberalism by scholars and academicians. **Eric Kaufmann (2000)** argues that a synthesis of liberalism and ethnicity is the most appropriate manner to look at the issue of minorities because liberal communitarianism chooses to place ethnicity under the categories of either liberal culturalism or liberal nationalism which are unable to deal with the reality of the ethnic community. He claims that ethnic practices need not violate the principles of liberalism so long as they are reconstructed in such a manner so as to separate national ethnicity from the state. He urges ethnic leaders to separate their political and economic concerns from the state as far as possible which shall prompt the state to adopt a multicultural policy which would not extend special privileges to any single community. This would thus provide space for the simultaneous pursuance of both liberal and communitarian principles.

Will Kymlicka (1995) similarly champions the cause of the minorities and states that collective rights of minority cultures are consistent with liberal democratic principles and the clichéd liberal objections to minority rights do not hold true any longer. He tends to throw light on several issues such as federalism, group representation, religious education and secession which have been neglected for a long time in contemporary liberal theory.

Perry Keller (1998) opines that a just and workable approach to ethnic rights should be informed by contemporary socio-anthropological understandings of ethnicity and culture which when understood within the liberal philosophical foundation of the European human rights system, leads to the emergence of a universal right to ethnic identity. He however stresses on the compulsion to have a

strong bond of solidarity in diverse societies which shall not be compromised or curtailed by means of assertions made by different ethnic identities.

VIII - Review of Literature

The factors responsible for the gradual emergence of the idea of minority protection and its subsequent occupation of the centre-stage in EU policy have been dealt with in an extensive manner. **Stephen Deets (2006)** has traced the historical evolution of the idea of minority protection. He states that virtually every major European treaty starting with the Treaty of Westphalia has tried to engage itself with the idea of minority protection which was finally imported into Central and Eastern Europe from the west. The west perceives minority rights to be associated with the connotations of liberal values and security fears while Central and Eastern Europe considers issues of minority protection to mainly revolve around the concerns for collective autonomy and justice. Consequently, the seasoned mindsets in West and East Europe manifest a very real and palpable disconnect in the understanding of the ideas and intent behind the current European norms concerned with minority protection. **Safia Swimelar and Jennie Schneider (2004)** state that the Copenhagen Criteria of 1993 which included the conditionalities which the candidate countries of Central and Eastern Europe were supposed to fulfil before being awarded the membership of European Union included the protection of minorities as one such condition which was remarkable given the dominance of individual rights framework within the United Nations and the European Union human rights regimes. The rationale behind the inclusion of the clause of minority protection was that the EU wanted to ensure regional and international security and did not want to import ethnic conflicts and tensions from across the borders of the Central and East European countries. **Jan Zielonka (2002)** has stated that the people of Central and Eastern Europe have been seeking respect and acknowledgement from Western Europe and hence they can simply not avoid the highest western standards in regard to minorities invoked as a norm. **James Hughes and Gwendolyn Sasse (2003)** have stated that the issue of minority protection is an extreme case for analyzing the issue of EU membership conditionality and compliance by candidate countries as the EU law is virtually non-existent, EU practice is divergent and international standards are ambiguous and therefore the issue seems to have been given an over-rated rhetorical prominence by the EU during the enlargement negotiations.

Literature is available on the mechanisms by means of which the European Union seeks to ensure minority protection and the impediments that militate against such endeavours. **Christopher Preston (1997)** has stated that European Union makes efforts to ensure democratic accountability by means of more direct supra-national control but the exercise has become complicated owing to enlargement since new members practice their own methods of consultation and modes of enforcing accountability which has to be painstakingly accommodated into the framework of the European Union. Thus the enlargement has had a decisive impact on EU policies. **Li-Ann Thio (2005)** claims that European system is the only functioning regional human rights system that specifically addresses the problem of minorities by means of the dedicated treaty in the form of the Council of Europe's Framework Convention on National Minorities (1995) while the relevant human rights systems in Asia and Africa benefit only from general human rights norms which prohibit discrimination on stipulated grounds. **Rianne M. Letschert (2005)** has stated that the minority mechanisms such as *the High Commissioner on National Minorities, the Working Group on Minorities and the Advisory Committee on Minorities* under the Framework Convention make use of different methods and approaches to carry out their mandates which are predominantly non-judicial in nature on account of the non-legal procedures at their disposal. There is confusion regarding the legally binding status which provides a lot of scope for interpretation in the *Copenhagen Document and the Framework Convention for the Protection of National Minorities* which are mainly used by these mechanisms as points of reference. Another problem faced by these mechanisms is the lack of a universally acceptable definition of the term 'minorities'. He claims that this is on account of the fact that organizations both at the international (*United Nations*) and regional (Council *of Europe and Organization for Security and Cooperation in Europe*) level have believed that a non-judicial approach should be adopted to address contemporary minority problems.

The centrality of the European Union in resolving minority disputes has been adequately acknowledged. **Matthes Buhbe and Iris Kempe (2005)** state that an EU Baltic Eastern Policy could go a long way in resolving the disputes pertaining to the Russian speaking minorities in the Baltic States and thus help in overcoming the historic preconception regarding Baltic-Russian relations. An EU Baltic Eastern Policy would contribute towards strengthening transatlantic relations and contribute to

the easing of 'geopolitical competition and reconciling overlapping spheres of interest between the European Union and the Russian Federation. **David J. Smith (2003)** states that the EU should be extremely proactive in safeguarding the interests of the minorities in the Baltic States and sensitive to the fact that these states are trying to do away with the historical baggage of past injustices as only this shall ensure maintenance of the consistency towards the existence of a genuine multicultural democracy in these states.

The available literature provides an insight into the problems that come in the way of effective implementation of minority protection in the Central and East European countries. **Lynn M. Tesser (2003)** states that the pressure to adhere to the European standards pertaining to minority protection has contributed in a significant manner towards the lessening and reining in of potential conflicts. But this positive impact is constantly overshadowed by the strategic acceptance of European standards by political elites which undermines 'the legitimacy of liberal values' and when such norms create friction by unintentionally encouraging ethnic groups to transform themselves into nationalities. **Michael Johns (2003)** brings to light the double standards by means of which the European Union has forced the post-communist states of Central and Eastern Europe to adhere to standards regarding the treatment of national minorities which the old member states do not meet themselves. The newly democratized states of Central and Eastern Europe are being torn between the economic advantages of membership in the European Union and the attempts at trying to provide safety mechanisms for the protection of the language and culture of the majority group which makes altering laws in the light of the standards set by the EU concerning minority rights, culture and citizenship extremely difficult. **Toggenburg (2003)** is sceptical regarding the potential of the EU to establish a credible and direct connection with the minorities. He contends that a chance of such a bond to come into existence is further diminished by the lack of adequate legal backing. He however states that the EU should not be deterred from relentlessly pursuing the goal of developing an effective policy in the field of minority protection which could be bolstered by undertaking certain initiatives such as the creation of the post of 'ambassador for minorities' in the European Parliament. **Bernd Rechel (2008)** has stated that the European Union has had a decisively limited impact upon minority protection in Central and Eastern Europe on account of certain constraining factors

such as internal minority rights standards. emphasis on the aquis communitaire, missing expertise on minority issues, the superficial monitoring of candidate states, a lack of concern for human rights and a failure in addressing public attitudes towards minorities.

Rogers Brubaker (1996) has convincingly argued that national minorities should not be seen as 'fixed entities but rather as dynamic relational political fields'. He states that being a minority is simply not a matter of ethnic or national identity but rather the product of processes of identification and categorization in which political action plays an important role. Hence, politicians and leaders use the language of national identity to mobilize people for specific identity projects and thereby 'evoke' minorities and majorities.

Numerous suggestions regarding the ways and means by which the protection of minorities can be enhanced as a result of initiatives undertaken by both the European Union and its member-states have been elaborated upon. **The European Centre for Minority Issues (2005)** has stated that the importance of the emerging trend of minority protection cannot be overemphasized but it is necessary to accept at the same time that the actual protection provided to minorities on the ground has not been overwhelming. He says that this defect can be done away with by the active participation of the European Court of Justice that shall uphold the common principles of law silently developing against the background of the Charter of Fundamental Rights and the Race Directive. **Tamara K. Hervey and Jeff Kenner (2003)** consider the policy of multiculturalism in Europe to be a state of mind which is sensitive to certain issues rather than a perceptible real situation and this sensitivity is portrayed by way of inclusion of those issues in a major document such as the EU Charter of Fundamental Rights which is hailed by them as a solid positive move in the direction of minority protection.

The distinct role played by the Baltic States in the realm of minority protection especially after the accession to the European Union has been highlighted. **David James Smith (2005)** has credited the Baltic States to have provided key leaders who led the Congress of European Minorities in the 1920s which demanded for a pan-European guarantee for minority protection based on non-territorial cultural autonomy which is considered to be one of the essential prerequisites for the formation of a

future United States of Europe. Smith believes that the unique experiment carried out by the Baltic States in the realm of non-territorial cultural autonomy merits a closer scrutiny as many states such as Hungary and the Russian Federation have adopted the legislation pertaining to minorities based on this principle. **Gabrielle Hogan-Brun (2005)** comments that accession of the Baltic Republics to the European Union has had a decisive impact upon ideological debates pertaining to the languages of minorities and citizenship rights in the region and it shall continue to persist for some time to come. This necessitates that West Europe should have contextualized insights which shall enable them to promote the correct understanding of the diversified social, political and ideological formations and make an accurate assessment of the existing requirements of the region.

The role of the European Union towards the establishment of peace and harmony in the Baltic States by means of the redressal of grievances of the minority groups has been discussed and emphasized upon. **Adam Gwiazda (1994)** states that the Baltic societies have always been multi-ethnic and thus Russians, Germans, Poles and Jews as well as Estonians, Latvians and Lithuanians have shown a tremendous capacity for mutual coexistence. However, with the attainment of independence, the Baltic governments were faced with the problem of integrating the new category of inhabitants namely the non-citizens who were mostly the Russians, Belarusians and Ukrainians who from 1944 onwards had been systematically settled throughout the Baltic region. A genuine feeling of togetherness has not been able to have been fostered in this region owing to Moscow's attempts at Russianisation and the pursuance of a coercive policy in the Baltics. **Holley E. Hansen and Zachary D Green (2008)** examine the citizenship laws, minority representation in parliament and the attitude towards minority populations in the Baltic States in order to ascertain the effectiveness of the European Union as an agent of socialization of minority rights. They claim that being European has been more important for the political elites of the Baltic States rather than acting like a European and hence it is important for the European Union to monitor the treatment meted out to the minorities and take action against the states for any kind of discrimination against the minorities.

IX- Scope for Refinement of the Research

The review of literature points to a substantial room for refinement of research undertaken on the subject. The study shall strive to negate certain platitudes that have gained currency on account of repetitive references to the same in the majority of the works done on the subject. The study seeks to collate the relevant data and information on the subject and present a critical assessment of the phenomenon of minority protection in the countries of Central and Eastern Europe which seems to be missing in the majority of the works that form part of the literature surveyed.

****

CHAPTER 2

EU IN THE REALM OF MINORITY PROTECTION

The chapter traces the trajectory of the issues pertaining to minorities from the days of the Westphalian states to the current formulations of the EU. It examines the effectiveness of the various legal instruments that deal with minority protection which are utilized by the EU for safeguarding the rights of the minorities. This chapter tries to give an insight into the level of preparedness of the EU and the degree of finality reached in dealing with minority issues.

I - Historical Evolution of the Idea of Minority Protection

It is believed that virtually every major European treaty starting with the treaty of Westphalia has concerned itself with the issue of minority rights. The conditionality that is attached to Westphalian sovereignty is that states shall be recognized as independent entities that shall wield power so long as they do not violate the rights of minorities. A state shall be subjected to collective intervention by the international community subject to the violation of norms pertaining to minorities. This bargain is said to be rooted in fears of prolonged violence and has successfully endured although it has not been persistently applied, for more than 350 years which is remarkable indeed (Deets 2006:422). The lust for power of the sovereigns rendered the religious contest of the Thirty Years' war extremely complicated and led to the emergence of religious minority communities owing to religious differences combined with the principle "cuis religio euis religio" which means that the religion of the ruler is the religion of the ruled (Gindley 2005: 410). Hence, by the mid-eighteenth century, a number of other international treaties included broad provisions for states to tolerate different Christian faiths on their territory in order to avoid conflict with external powers and contribute to international stability (Preece 1999: 58).

The European powers gradually realized the need to protect national minorities rather than religious minorities. The dispersal and intermingling of numerous ethnic groups was much greater in Central and Eastern Europe than in Western Europe and hence nationalism is said to have had a "centripetal effect in the

former and a centrifugal effect in the latter". Nationalism had emerged in Central and Eastern Europe in the eighteenth century as a result of a struggle waged by the people against the Ottoman, Hapsburg and Romanov dynasties. Most of the movements launched during this period followed a general pattern and endeavoured to develop a consciousness and a sense of belonging among the people of various groups regarding their history, culture, folktales and language. The empires were extremely powerful in the nineteenth century and hence the movements chose not to agitate for full scale independence and demanded for limited political independence and an increment in cultural and linguistic autonomy for they feared of being swallowed up which would lead to the pulverization of their existence. These factors contributed to language and linguistic rights occupying centre stage in the movements and it continues to remain one of the most important elements in nationalist thinking. Thus, Count Istvan Szechenyi stated that 'The Nation lives in its language' (Niederhauser 1982:45). The reaction of the empires to suppress the surge of these movements was the firm and large scale attack and repression of the languages of the national minorities.

II - The Viability of Nationalism for Ensuring Peace

The need to protect minorities by law was a realization that dawned belatedly during World War I. The policy makers were stunned by the sudden collapse of the great empires of Central and Eastern Europe. History seemed to have answered in the affirmative to all those who aspired to have a "New Europe" which included Wilson who had a rather ambiguous concept of self-determination, wagers of struggle for the cause of oppressed nationalities like Robert Seton-Watson and Arnold Toynbee and national leaders like Masaryk and Paderewski. However, there were some liberals such as Lord Acton who were convinced that nationalism as a policy could give rise to numerous and uncontrollable conflicts and tensions (Macartney 1968: 17). Robert Cecil echoed similar sentiments in the British Foreign Office in 1917 when he stated:

> I do not myself believe that a European peace founded only on nationality and without any other provisions is likely to be desirable or even in all respects beneficial (Rothwell 1971:159).

The same sentiment was expressed by numerous groups including Jewish lobbies which made attempts to compel the Great Powers to take cognizance of the dangerous situation in which ethnic minorities found themselves on account of the presence of half-crazed nationalists. Their argument happened to be validated on

account of two national movements that took place during World War I. The first was the clash between the Turks and Armenians which took place in 1915 and led to the death of almost 1.3 million people. Arnold Toynbee considers it to be the first instance of the war of extermination which occurred on account of the extension of the principle of nationalism (Toynbee 1922). Klejda Mulaj is similarly extremely sceptical of imposing the process of homogenization and expulsion of ethno-national minorities as a viable recipe for consolidating the exercise of state-building. He considers a nation to possess all the characteristic features of an ethnic community as well as clearly demarcated territory which enables it to acquire statehood and thus the entire nation ought to get inspired from a common past to aspire for a common future (Mulaj 2008:7). Thus, strife owing to the presence of diversity brought to the centre-stage the issue of acknowledging the existence of the identities of minorities and their rights.

The second instance was the struggle that took place in Poland in 1918-1920 between the supporters of ethnic purity who had a problem with the fact that the Poles had to share Poland with the Germans, Jews, Lithuanians and Ukrainians and those who were in favour of harmony and a multi-ethnic commonwealth under Polish leadership which was largely considered to be impossible in post-war Eastern Europe. By the end of 1918, fierce fighting took place between the Polish troops and the Ukrainians as well as the Jews who were compelled to form units for self-defence. Poland was left ethnically two-third Polish from an ethnic point of view (Levene 1992). The damage done by the war was pointed out to a visitor thus:

> You see those little holes? We call them 'Wilson Points'. They have been made with machine guns; the big gaps have been made with hand grenades. We are now engaged in self-determination, and God knows what and when the end will be (Cohen 1952: 87).

III - The Bias and Passivity of the League of Nations

The struggle in Poland compelled the formulation of a new international policy on minority rights in the form of the Polish Minorities Treaty at the Paris Peace Conference as the need for such a policy was felt in order to check the spread of ethnic civil wars through Eastern Europe which was reeling under Bolshevism. The Polish Minorities Treaty ensured equality of treatment under law and religious freedoms as well as rights to certain forms of collective organization in the

educational and cultural spheres. The treaty was guaranteed by the League of Nations which meant that its Council could take action in certain cases and complaints could be brought to Geneva but not by the minority concerned. The Great powers were most unwilling to give the minorities or their defenders any form of access to the new world organization (Boemeke et al. 1998: 272).

Poland presented the sample for the numerous minority rights treaties that were drawn in Paris and imposed upon the newly-created states as well as former belligerents like Hungary and older states like Romania and Greece. The League of Nations thus accepted the nation-state as the norm in international relations on the one hand and made a conscious effort to tackle the minority issues on the other by accepting minorities as collective entities. The image and visibility of the minorities and their condition received an increment through the annual meetings of the European Congress of Nationalities. But the League hardly made any effort for cases pertaining to minorities to be heard by its Council or be referred to the Permanent Court of Justice in The Hague. It hardly acted as the champion of minorities and settled for the role of an interlocutor and helped governments carry out their obligations. The League also proved to be ineffective against offenders such as the Yugoslav gendarmes in Macedonia and the Polish government's bloody "pacification campaign" against the Ukrainians in 1930 (Mazower 1997: 5).

The prescription of the minority treaties was not welcomed by the countries concerned as they disapproved of the absence of a universal minority-rights regime. They complained of having been singled out when the same standards and sanctions were not imposed on Germany or on Italy when they brought about the persecution of the German-speaking minority in South Tyrol. The fact remains that the climate remained unfavourable for minorities because most of them were suspected of disloyalty to their host states on account of their dissatisfaction with the Versailles peace settlement in the inter-war years which is considered to be the time when the spirit of nationalism reached its zenith. It is a fact that out of the approximately thirty-five million estimated minority inhabitants in inter-war Europe, only some 8.6 million lived in Western Europe which is equivalent to one in twenty of the total population whereas about twenty-five million lived in Central and Eastern Europe which is equivalent to one in four. Hence, the minority question was undoubtedly more important for the people of Central and Eastern Europe. Nevertheless, the lack of a

universal regime of minority rights was an embarrassment for the Great Powers (Junghann 1932: 116). The prospect of having a universal system of minority rights was considered in 1919 in Paris only to be rejected on account of the fundamental issues of state sovereignty being at stake (Headlam-Morley 1972: 113).

The Great Powers would seize upon the opportunity to meddle in the internal affairs of the 'new' states but brooked no interference in their own affairs. This was based on the belief that 'civilized' states of Western Europe had the mechanism in place for bringing about the assimilation of minorities that was conspicuous by its absence in the 'immature states'. Such an atmosphere made it easier for the Welsh or Catalan children to join prestigious professions and the civil services while the same could be achieved only with a great deal of difficulty by the Ukrainians in Poland and the Hungarians in Romania. Hence, the minority treaties were largely considered to be a way of educating less civilized nations in international deportment. However, the underlying premise of assimilation into the civilized life of the nation was considered to be desirable and stable. It was thus declared by a Brazilian delegate in Geneva in 1925 that "the goal of the treaties was not to perpetuate a state of affairs in which certain groups in society saw themselves as constantly alien, but rather, to establish the conditions for a complete national unity" (Smith 1991: 27).

IV - The Third Reich and Minority Protection

The assimilation thesis received a major drubbing on account of the rise of the Third Reich and the manner in which ethnic and racial nationalism was practiced and observed in Warsaw, Bucharest as well as across Central and Eastern Europe in the 1930s. The number of minority petitions received at Geneva saw a huge decline from 204 in 1930 to 15 in 1936 which reflects the loss of confidence of the European minorities in the credibility and value of the League (Claude 1955:30).

The Estonian government did take the revolutionary step of granting cultural autonomy to its national minorities while the Latvians relented and gave concessions in education. But these must be considered to be exceptions to the prevailing general state of affairs where promises were generally not kept as in the Lithuanian and Polish cases. The number of Ukrainian schools in Poland for instance, dropped considerably from 3,662 to 144 in the inter-war period. Numerous clauses kept minorities out of universities and the coveted services (Motyl 1985: 46).

Hitler resorted to mass murder and population transfers in order to create an anti-liberal new order in Europe. The legal theorists representing the Nazis attacked Geneva's "juridification" of international relations and its pathetic belief in a "common rule of law" applicable to people of "differing racial worth" (Herz 1939). The German minorities in Central and Eastern Europe were "racial comrades" of the Reich Germans. They could be protected by invasion as in Austria and the Sudetenland or through the "trustee rights" that Germany acquired in its Danubian client states in the second Vienna accord of August 1940. These laws for the protection of the folk-group gave the "mother country" the right to intervene directly with the host government on behalf of the minority. This brand of legislation looked far more attractive when German power had reached its crescendo than it did a mere four years later. Hence a famous pan-Germanist expressed his feelings by stating that "blood is stronger than a passport" (United States, Department of State, Division of European Affairs 1943: 70).

Collective justice had been turned on its head by 1945 as millions of Germans were expelled westwards. The racial basis of Nazi jurisprudence and Germany's violation of the accepted principles of international law had been considered since the late 1930s as the principal causes of the breakdown of the European order. Nazi aggression had undermined state sovereignty in domestic affairs. The need for the rejuvenation of international law thus emerged as an ancillary to the liberal concern for world peace and for safeguarding minority rights (Friedman 1938).

V - The Debate in the Post-war Period

Liberal thought in the interwar period had expressed its confidence in the power of world public opinion to safeguard minority rights. It was realized that a more sound and effective instrument would be required in the post-war period for addressing the issues of the minorities. The core of the discussion revolved around the issue as to whether the minority rights to be enshrined in the new post-war order should be individual or collective. The latter had been resorted to by the League of Nations as the system for the protection of minorities in Central and Eastern Europe. The post-war order established for the period after 1945 would sharply deviate from this approach. The war was unable to extinguish the problem of ethnic strife. This led Raphel Lemkin to coin the term "genocide" in his 1944 study of Axis Rule in

Occupied Europe and called for putting in place "adequate machinery for the international protection of national and ethnic groups against extermination attempts and oppression in time of peace" (Lemkin 1944: 15).

Despite, the dire need to protect minorities, there were strong arguments put forth for demolishing rather than supporting and improvising the collective rights approach. President Benes and the Czech government in exile had rejected the approach on the ground that it had disastrous consequences for their national security. The states of Central and Eastern Europe were not happy with the fact that they had been targeted for carrying out special obligations towards their minorities whereas the Great Powers were not expected to observe any obligations as such. Benes suggested that the post-war approach to minorities should be "based upon the defence of human democratic rights and not of national rights" because of the unfair practices prevalent in the 1940s which he summed up as:

> ....things came to such an extraordinary pass that the totalitarian and dictator states – Germany, Hungary, and Italy- persecuted the minorities in their own territories and at the same time posed as the protectors of minorities in states which were really democratic (Benes, 1942).

VI - The Non-committal United Nations

The major Allied powers which included Britain, France and the United States showed no interest for the rejuvenation of the system that had succeeded in internationalizing the most serious source of tension in Europe without finding the adequate means of resolution. The major powers wanted to curtail their obligations towards the minor states as far as possible and hence they were more than relieved and happy to bury the League's approach to collective minority rights. The result was that the United Nation's eventual commitment to individual human rights was an expression of passivity. It was a recourse taken not for solving problems but for avoiding them.

The commitment of the United Nations towards minority protection was as weak as its hold over the other affairs of the world. The Charter of the United Nations undoubtedly indicated a step backward from all that the League had achieved. The issue of minority rights finds place as the second purpose of the United Nations in the UN Charter and it is expressed thus:

> To maintain friendly relations among nations based on respect for the principal of equal rights and self-determination of peoples and to take other measures to strengthen universal peace (United Nations: 2)

The preamble also leaves much to be desired and states as the second point that:

> We the peoples of the United Nations determined to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small...(United Nations: 1).

It is evident that a determination to address and resolve the problem of minorities is conspicuous by its absence. In fact, one has to decode the text in order to understand and make it sink that it is the cause of minorities that has found mention in the Charter. This shows the reluctance of all parties concerned to engage with the issue.

The adoption by the General Assembly of the Universal Declaration of Human Rights in 1948 was considered to be the first major achievement in the field of human rights. It gives the individuals a status of importance in international law that they had never enjoyed before. The Declaration forms the basis of many subsequent human rights instruments. It therefore states in its preamble:

> Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people, whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law (United Nations 1948).

However, the minorities have been scarcely mentioned and their study has been confined to a non-prominent Sub-Commission of the Human Rights Committee. A study by the Secretariat of the United Nations mentioned the difference in the approach of the League which was referred to as "outmoded and general universal protection of human rights", which was described by one commentator as "disastrous for the international protection of minorities" (Phillips et al. 1993: 15).

The Genocide Convention passed in 1948 was hailed as more far reaching in its implications as it had added an important crime to the list of the crimes recognized under international law but there was little to support the assertion made by the United Nations that "the feeling will grow in world society that by protecting the national,

racial, religious and ethnic groups everywhere in the world we will be protecting ourselves." A series of genocides went unpunished outside Europe for a period of four decades and the very same indifference was witnessed in Europe in 1992 (Robinson 1960: 52).

VII - Role of the State Pertaining to Rights Linked with Identity

The post-war period can be bifurcated into two phases. The first was the denial of rights linked with identity while the second phase included the putting in place of European policy for states to assist in the preservation of minority culture and language. The positive nature of state action became visible before the collapse of communism but its complete elaboration came in response to the wars of Yugoslav secession. The de-linking of identity from rights was witnessed in two areas. The first area was of considering the question of minorities on the basis of the individual framework. It was clearly articulated by the European Court of Justice in the Belgian linguistics case. Responding to complaints of French speakers against the Flemish majority communities, the court ruled that they could not claim the right to public education in French and further stated that no individual or collection of individuals could claim the right to public education in any specific language.

The second related development was the fortification of norms of non-interference by one state in the other's minority policy. Thus, the long-lasting feud over the treatment of Danes in Germany and Germans in Danes was resolved by means of unilateral declaration by both sides on the manner in which they would treat the co-ethnics living in their states.

The shift from the emphasis on individual rights towards a more "public goods approach" took place in the mid-1980s. The shift was mentioned in several European documents and it took place largely because of the "changing membership" of the European organizations. Rather than talk of state non-discrimination, the documents mention state "promotion" of "language learning, minority language media and minority cultural organizations". The state helps ensure the provision of "minority cultural goods" and states that all those who want to make use of the goods are allowed to do so. This approach can thus be construed as liberal because it is individual autonomy that forms the basis of norms and eliminates the need for identifying a person on the basis of ethnic or national criteria. It also ensures the

exercise of democracy as it makes vague formulations regarding questions as to which minorities are relevant and the details of policies in the domestic arena (Deets 2006 : 427-429).

VIII - The Cold War Era

The contacts between the European Community and the Eastern bloc were kept to a minimum which was a result of the impact of the East-West divide. The European Community refused the proposition put forth by Brezhnev in 1972 for negotiating a trade agreement with the Comecon on the one hand while it chose to have trade links with each of the Comecon countries under the bilateral framework on the other. Despite this, the EC member-states frequently expressed concern over the human rights record of many Central and East European countries including that of the Soviet Union. The Commission on Security and Cooperation in Europe (CSCE) was the forum by means of which the European Community articulated its positions as it had a trans-European membership and it extensively covered and dealt with human rights. The European Community took its very own initiatives and suspended food aid to Afghanistan in 1980 as a reaction to the Soviet invasion of the country while the European Council adopted restrictive measures relating to trade with the Soviet Union to protest against martial law established in Poland a year earlier.

The EC-Comecon relations improved considerably during the rule of Gorbachev and as a result, a Joint Declaration established official relations between the European Community and the Comecon in 1988. The consummation of trade and cooperation agreements with a number of other countries of Central and Eastern Europe were made conditional on the observance of respect for human rights which mainly included minority rights. For instance, the negotiations with Bulgaria which started in 1989 did not see the light of the day because the European Community suspended the talks over the concern for violation of linguistic and religious rights of the Turkish minority in the country. The joint committees that were formed to monitor the functioning of the agreements provided an extremely important avenue for discussing the alleged human rights violations. Such concerns could not be thrown to the winds on the grounds of the non-interference argument or because of the fact that the European Community was not a signatory of the Helsinki Final Act or other CSCE documents. However, the linkage between trade benefits and human rights was

still infantile in nature and it could not become the basis for suspending or terminating the agreement on the basis of non-compliance with the human rights standards of the CSCE. The European Community was acting in a very fluid situation as the collapse of the communist regimes of Eastern Europe was still underway. Minority considerations were minimal during this period and the greater challenge was "to articulate a meaningful and coherent response to the demise of the East-West confrontation with its inter-linked economic, political and humanitarian dimensions" (Pentassuglia 2001: 10).

IX - The Different Thought Processes

The debate about the notion of minority rights in European democracies was significantly impacted on account of the "issue" of minority rights in European democracies. The change in perspectives had graduated into an ideational divide between Western and Central and Eastern Europe by the 1980s. The expectation that Western norms would easily be transferred to Central and Eastern Europe after 1989 was belied. The challenge posed by the new democracies was much more sturdy than expected and the West European norms were redefined and reinterpreted by the intellectuals and politicians of Central and Eastern Europe. There has been a great deal of elaboration of European minority norms but unanimity on the issue of minority rights does not seem to be anywhere near. The concept of minority rights is rooted in the notions of justice, individual rights and the status of identity communities in the polity and thus the debate over the issue continues to be extremely complex and intense across Europe. Many scholars blame West Europe for prolonging the debate as they have invited a lot of confusion because they have failed to distinguish between the policies that reflect extremely significant norms and those that are merely politically useful (Deets 2002). It is widely believed that minority norms have been subjected to a great deal of hypocrisy as the West Europeans have been coaxing and chiding the Central and East Europeans to enact policies that they would never accept themselves (Krasner 1999). Schopflin has suggested that the problem can be attributed to the "political and cultural thought-styles of Central Europe which are out of alignment with the West" (Schopflin 2003:488).

X - The Copenhagen Criteria

All countries seeking membership of the European Union were supposed to fulfil the relevant criteria established by the Copenhagen European Council in 1993 and strengthened by the Madrid European Council in 1995. A new member-state was supposed to fulfil the following criteria:

- "political: stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;
- economic: existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union;
- acceptance of the Community aquis: ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union"

The political criteria which included the clause of respect for and protection of minorities were to be fulfilled by the member-states in order to start negotiations with the European Council (Europa).

XI - The Process of Europeanization for the Purpose of Enlargement

The Copenhagen criteria has largely been understood as comprising of an extremely fruitful "incentive structure and sanctioning mechanism" for the European Union in the promotion of human rights and for the promotion of minorities. The European Union's "conditionality" on the accession of the Central and East European candidate countries is characterized by a power asymmetry through which the European Union can use conditionality as an instrument to exert political pressure on the candidate countries to ensure that the latter toes the line in the areas of policy and legislation. The leverage of conditionality is widely believed to be one of the primary means to bring about "democracy promotion" and the creation of "foreign made democracy" by the European Union in Central and Eastern Europe (Zielonka 2001:31).

There was a conscious effort to europeanise the countries of Central and Eastern Europe by means of the Copenhagen Criteria before they joined the European Union. The phenomenon of Europeanization has been very aptly defined by Radaelli thus:

> Europeanisation consists of processes of construction, diffusion and institutionalization of formal and informal rules, procedures, policy paradigms, styles, 'ways of doing things' and shared beliefs and norms which are first defined and consolidated in the EU policy process and then incorporated in the logic of domestic (national and sub-national) discourse, identities, political structures and public policies (Featherstone *et al.* 2003:30).

The candidate countries have had to "take on" all the European Union's existing laws and norms so as to make sure that they are subject to the same Europeanization pressures as member-states in the policies and institutional templates that they "download" from the EU level. The legal "transposition" and harmonization whether "horizontal or vertical" with the EU laws which in turn depended upon whether the integration was positive or negative were considered to be quintessential for the purpose of becoming a member-state and hence they were the central focus of the accession process and preparations by the accession states (Knill *et al.* 1999 :3).

The European Union happens to be the largest external source of aid for the Central and East European countries with funds provided by the European Commission and also through bilateral programmes from individual member-states. The co-financing requirements compel applicant countries to allocate public resources to particular policy areas. Hence, the EU aid can bring about significant changes in the list of priorities on a government's agenda.

The march towards EU accession has been a central issue in the political debates of Central and Eastern Europe and this has been made use of by the European Union to influence policy and institutional development by means of benchmarking in particular policy areas and providing examples of practices which the applicants were asked to emulate. Therefore, monitoring has been an extremely significant mechanism in the conditionality for membership which was assured through Accession Partnerships and Regular Reports which were published by the European Commission and indicated the level of preparation of each country of Central and Eastern Europe.

The exercise of setting standards and creating monitoring mechanisms for the applicants has been considered to be a learning process for the EU as this experience has been utilized for planning monitoring processes for the existing member-states. The European Union is said to have discovered benchmarking by accident and it was utilized as a transmitter of Europeanization for both the candidate countries and the existing member-states (Beg *et al.* 1999).

The European Union has a "direct line into policy-making structures" in Central and East European countries by taking recourse to its "twinning" agenda. Twinning pays for the "secondment" of civil servants from the EU member-states to work in the ministries of the Central and East European countries and in the other parts of public administration. This provides a direct and instant opportunity for "cognitive convergence" as EU civil servants work alongside their counterparts from the Central and East European countries. The most important conditionality tool of the European Union was access to the different stages in the accession process and the most important among them was considered to be the securing of candidate status and starting of negotiations. Aid, trade and other benefits have also been employed by the European Union to bring about domestic policy changes but they have not had such direct and apparent consequences as the endeavours made towards achieving EU membership (Heather 2002: 10-11).

XII - Observance of the Copenhagen Criteria

The Copenhagen Criteria were adopted into primary law of the European Union in the Amsterdam Treaty which came into force in 1999 with the exception of the need to show respect for and protection of minorities. This clause was rendered a pure political rather than a legal obligation. The European Commission had no power to influence the process of minority protection once the process of accession of the candidate country was completed. Thus, the risk arose of the minority clause being treated as conditionality for EU membership rather than as a perpetual condition to be observed by the new members of Central and Eastern Europe (Smith 2005:257).

Vachudova argues that even when the "threat of exclusion made the costs of not complying with the Copenhagen Criteria crystal clear", the European Union's pressure to change certain policies had " surprisingly little effect" on the less than

liberal governments of the Central and East European states (Vachudova 2004: 144). The active leverage of the European Union had only negligible impact upon the policies of the Meciar-led government of Slovakia as compliance with the Copenhagen Criteria would have tightened the hold of the European Union on Slovakia's administration which Meciar was not prepared to accept (Haughton 2005:127).

There was a gradual shift in the European Commission's emphasis from adoption of the aquis communitaire to issues of "capacity and implementation". However the Regular Reports revealed that the European Commission was not prompt enough to follow up on the problems of implementation especially in the area of minority policies where such issues have been dealt with in general terms such as the "lack of funding, weak administrative capacity, understaffing and the low levels of public awareness" in the candidate countries. Despite the criticism in the Regular Reports of certain countries of Central and Eastern Europe regarding the harsh treatment meted out to the minorities by them, they were generally recognized as continuing to fulfil the political Copenhagen Criteria. This shows that minority issues were certainly not the European Union's priority during the accession process (Rechel 2009:23-24).

XIII - Increment in Salience of Minority Protection after 1989

Minority protection was a second-order issue during the phase of transition in the Central and East European states as these states stressed upon the strengthening of the "central state capacity and the position of the majority nation". The policy practice after 1989 in Central and Eastern Europe varied from country to country and depended upon the following factors:

> ...size of the minority, its location and resources, the history of relations between majority and minority groups, the constitutional design of the new regime and the nature of its transition path.

The Helsinki process of 1975 expressed its approval of the formulation of the preceding European and international standards that were concerned with human rights by attributing them to "persons" rather than "groups". Part VII of the document released on the occasion ensures:

> Respect for human rights and fundamental freedoms including the freedom of thought, conscience, religion or belief...the participating States on whose territory 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 and will, in this manner, protect their legitimate interests in this sphere (Conference on Security and Cooperation In Europe Final Act, Helsinki 1975:6).

Hence, the nemesis of communism created an opportunity for the enforcement of a "transnational rights regime" in Europe. The reinvigoration of the CSCE process after 1989 legitimized it as an effective mechanism for the maintenance of conformity of the state with the main European norms of democracy, human rights and minority protection.

The European norms on minority protection that were newly put in place after the collapse of communism did not reflect any kind of break up with the international standpoints on minority protection. The concepts of minority as well as majority in international relations remains as poorly defined as during the time of the Treaty of Versailles in 1919. There is absolutely no legal or conceptual clarity of what constitutes a minority. There indeed seems to be a "babble of international instruments and the resultant ambiguities and contradictions reflect the underlying tension between universal and individual rights and "group specific" or differentiated rights for minorities (Biro *et al.* 2001: 48).

The lack of unanimity on what constitutes a national minority however did not act as an impediment for the "principle or norm" of minority protection to enjoy a very high degree of rhetorical prominence in the manner in which external and internal actors evaluated state-building and democracy in the Central and East European countries after the fall of communism. In fact, the importance attributed to minority rights increased considerably in the international agreements after 1989. The rift between advocates of a traditional concept of sovereignty inherent in the rights of states and those who favoured the reformulation of sovereignty that included an obligation of minority protection came to the fore for the first time at the CSCE Copenhagen meeting in 1990. The second development was the attempt made by the European Union to redefine itself as more of a political union and the "newly re-stated pan-European normative commitment" was sought to be practiced by means of

imposing the Copenhagen Criteria upon the Central and East European countries (Hughes et al. 2003: 6).

XIV - OSCE

The Organization for Security and Cooperation in Europe (formerly known as the Conference on Security and Cooperation in Europe) was launched in 1972. It was created for the purpose of fostering east-west dialogue. It began with 35 members including all the European states, the United States of America and Canada. The renamed OSCE has 55 members at present. The CSCE process resulted in the adoption of the Helsinki Final Act in 1975. The participating states of the CSCE agreed to recognize their mutual interest in improving security through confidence building measures. The agreement laid down specific principles for the conduct of relations between states which included respect for sovereignty, renunciation of the use of force for settling disputes, peaceful settlement of disputes, non-intervention in internal affairs, respect for human rights, territorial integrity of states and the inviolability of frontiers.

The OSCE brought about important changes in the minority rights regime in the international sphere after the 1990s. The OSCE happened to the be the only forum which advocated that the protection and promotion of human rights should not be seen as an issue of domestic politics only but rather as a concern for international security as well. The OSCE is said to have introduced more details pertaining to minority rights and has therefore considerably increased their meaning and scope. It is widely believed that not abiding by OSCE policy puts member-states in an indefensible position. The Central and East European states gained through the OSCE process as it led to the official recognition of the territorial status quo in Europe (Heraclides 1993).

The task of the OSCE comprised of acting as an early warning mechanism and resorting to preventive diplomacy in specific situations or facilitating early action that it considered to be appropriate. This led to a new level of intrusiveness into the affairs of Central and Eastern Europe. The High Commissioner on National Minorities could become involved in the affairs of a state without seeking its consent or that of other states concerned.

XV - Criticism of the OSCE

The OSCE has been extremely reluctant in accepting more responsibilities for the sake of minority protection and it seems to have given prominence to security concerns over the issue of national minorities. It is believed that the western states of OSCE have sidelined the Human Dimension because it shall lead to the surfacing of intra-west divergences and divert their energies from the main task of putting pressure on the democracies of Central and East European countries.

The OSCE has been accused of treating minorities unequally as manifested in the role of the High Commissioner on National Minorities who is supposed to pay attention only to those violations of minority rights that have the likelihood of burgeoning into violent conflicts (Bloed 1994: 107).

The promotion of "separate but equal development" for national minorities to foster a separate culture and tradition had been extensively discussed and debated. Such a stance taken by the OSCE was bound to lead to "inequality and inter-ethnic conflict". It was also felt that learning only their own language would put the minorities at a disadvantage as they would be unable to participate in the institutions and structures of the country and consequently be rated as second-class citizens. The subordinate relationship to the OSCE and other international institutions shall lessen the competence of the state in resolving sectional conflicts because the legitimacy of central institutions can be brought into question in relation to claims based on minority rights.

The encouraging of minorities to approach the OSCE poses the danger of subjecting the states to a weak position as minorities can decide to go "forum shopping" and exert undue pressure on the elected representatives of the state to do their bidding (Office for Democratic Institutions and Human Rights 1992).

It is also believed that the inclusion of minority issues as part of the overall concern for international security has led to the differential treatment of the countries

of Central and Eastern Europe. This has been very aptly stated by Bowen in the following lines:

> ... the assumption of ethnic difference to be a cause of conflict paints all sides as less rational and less modern (more tribal, more ethnic) than we are and downplays any broader international, social or economic understanding of potential or actual conflict in the east.

The greater degree of importance accorded to the security concerns of national minorities rather than minority rights as a "broader trans-European or international question" resembles in more ways than one the scenario of the inter-war period during which the states of Central and Eastern Europe were treated formally and in practice as inferior to the mature democracies of the west (Cordell 1999:71).

The lack of political will has played spoilsport in the task of bringing about reforms intended for better functioning of the OSCE. It has been strongly recommended that the OSCE ought to be given a legally binding form. Another demand that has been frequently made is that the principle of "majority decision-making" should be instituted in all OSCE bodies as this will undoubtedly lead to a dynamic effect on the activities of the organization (Scherrer 2003: 260).

XVI - The Council of Europe

The Council of Europe came into being in 1949 as a European organization that aimed at fostering intergovernmental and parliamentary cooperation among the member-states. The primary goal of the Council of Europe was to secure democracy in the light of the recent and current totalitarianism and to safeguard against any sort of repetition of the gross violation of human rights that had taken place under the rule of the Nazis. The membership of the Council of Europe has increased to 49 and the member states stretch across virtually the entire European continent. The brochure of the Council of Europe captures the concern of the organization for the minority communities in the following manner:

> The Council of Europe believes that majority and minority communities in every society must enjoy the same rights and be equal before the law, with the right to preserve and develop their cultures, to safeguard their religions, languages and traditions and to voice their opinions (Council of Europe 2009:7).

The Council of Europe and the European Union have a long association of cooperation and each draws on the other's strengths and comparative advantages, competences and expertise and avoids unnecessary duplication at the same time. A Memorandum of Understanding between the two organizations provides a new framework for this cooperation. It confirms the role of the Council of Europe as the barometer for human rights, the rule of law and democracy in Europe. It stresses upon the need for synchronization of the legal norms in the field of human rights and fundamental freedoms between the two organizations and asserts that there should be closer cooperation between the European Union and Council of Europe in the future.

XVII - The European Convention on Human Rights

The European Community showed little interest in human rights for much of its more than forty year history. Human rights were not seen to be "integral" to the process of European integration as in the case of the ideals of democracy and rule of law. It was also assumed that they were adequately dealt with by the Council of Europe and the European Convention on Human Rights to which all the member-states of the European Community also belonged. Moreover, the European Court of Justice the principal judicial organ of the European Community generally interpreted Community law as it applied to member-states in accordance with the Convention and the jurisprudence of the Strasbourg institutions (Greer 2006:49).

The European Convention on Human Rights (ECHR) was signed in Rome under the auspices of the Council of Europe on 4th November 1950. It established an "unprecedented" system of international protection for human rights which gave individuals the opportunity to approach the courts for the enforcement of their rights. The ECHR document reveals the resolve of the countries to protect human rights and fundamental freedoms thus:

> The governments signatory hereto, being members of the Council of Europe, considering the Universal Declaration of Human Rights proclaimed by the General Assembly of the United Nations on 10th December 1948; considering that this Declaration aims at securing the universal and effective recognition and observance of the Rights therein declared; considering that the aim of the Council of Europe...to be pursued is the maintenance and further realization of human rights and fundamental freedoms... Being resolved, as the governments of European countries which are like-minded and have a common heritage of political traditions, ideals, freedom and the rule of law, to

take the first steps for the collective enforcement of certain of the rights stated in the Universal Declaration (Council of Europe 1950:2).

The ECHR was ratified by all the member states of the Union and it established supervisory bodies based in Strasbourg which included " a Commission responsible for advance examination of applications from States or from individuals, a European Court of Human Rights to which cases were referred by the Commission or by a member state and a Committee of Ministers of the Council of Europe which acts as the guardian of the ECHR and was called upon to secure a political settlement of a dispute where a case was not brought before the Court". However, the supervisory bodies were replaced by a single European Court of Human Rights on 1st November 1998 due to the phenomenal increase in the number of cases. This was done for the purpose of simplifying the structure so that the length of the procedures could be shortened and the judicial character of the system could be enhanced.

The prospect of the European Union acceding to the ECHR has often been discussed and debated. The Court of Justice of the European Union stated in an opinion given on 28 March 1996 that the European Community could not accede to the Convention because the EC Treaty did not provide any powers to lay down rules or to conclude international agreements on human rights. The Treaty of Amsterdam nevertheless calls for respect for the fundamental rights guaranteed by the Convention while formalizing the judgements of the Court of Justice on that matter (Europa Glossary).

The validity of the European Convention on Human Rights has been challenged on a frequent basis lately. The UK Home Office Secretary, Mr. Clarke for instance had expressed his standpoint on the relevance of the European Convention on Human Rights in the following manner:

> The convention is outdated and there is a need to balance important rights for individuals against the collective right for security...the view of my Government is that this balance is not right for the circumstances which we now face-circumstances very different from those faced by the founding fathers of the European Convention on Human Rights and that it needs to be closely examined in that context (Digital Civil Rights in Europe 2005).

The European Court of Human Rights has also come under severe criticism. The efficiency of the Court is hampered due to its "lumbering bureaucracy, the backlog of cases (100,000 or more) and the variable quality of its judges". It is

observed that the sudden and quick increase in demand and insufficient supply has occurred as a result of the dilution of the well-established legal systems of the West European nations which has happened after the new members of Central and Eastern Europe became its members in the course of fulfilling the precondition of EU membership. The suggestions that have been put forth for reforming the functioning of the European Court of Human Rights include the streamlining of the process of screening the cases and speeding up the process of hearings of cases which involve extreme human rights abuses (The Guardian 2009).

XVIII- The Charter of Fundamental Rights of the European Union

The 50th anniversary of the Universal Declaration of Human Rights was commemorated in 1998 and following the observance of the occasion, the Cologne European Council decided to work on a Charter of Fundamental Rights. The aim was that all the fundamental rights applicable at the Union level should be compiled into a single document so that awareness regarding these rights could be raised. The manner of drafting the Charter was itself considered to be an achievement as it brought together all the EU institutions, national Parliaments and the civil society (European Commission 2003).

The European Union's Charter of Fundamental Rights was solemnly proclaimed by the Nice European Council on 7th December 2000. It is based on the Community Treaties, international conventions such as the 1950 European Convention on Human Rights and the 1989 European Social Charter, constitutional traditions common to the member states and various European Parliament declarations. The European Convention on Human Rights deals with civil and political rights while the Charter deals with these as well as other issues such as social rights, data protection, bio ethics and the right to good administration (Europa Glossary).

Article 21 of Chapter II of the Charter of Fundamental Rights states the following:

> Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited (Official Journal of the European Communities 2000: 13).

The persistent pressure for bringing about an increase in protection provided for minorities notwithstanding, the inclusion of a separate provision providing for minority protection in the EU Charter of Fundamental Rights continues to appear to be an extremely difficult task. The core of any fundamental right invariably indicates that they are meant for the individual. The basic liberal principle identified in this respect is non-discrimination or the equal and fair treatment of all individuals irrespective of race, nationality, ethnicity and gender as expressed in Article 21 of the Charter. It is therefore reasonable to expect that "special representational rights (for example, affirmative action in the form of quotas) will continue to conflict with the principle of non-discrimination". A useful suggestion in this context is that there should be only one constitutional amendment that recognizes the rights of all minority groups and this would prove to be advantageous as it would militate against the need to adopt additional individual constitutional amendments since all the members of the national minority groups would be granted the right to define and join these constitutionally recognized organizations (Roach 2005:55).

XIX- The FCNM

The Framework Convention for the Protection of National Minorities (FCNM) was adopted by the Committee of Ministers of the Council of Europe in 1994 and it came into force 1998. It is the first legally binding multilateral instrument devoted to the protection of minorities and it is widely regarded as the most comprehensive international standard in the field of minority rights. While the OSCE Copenhagen Document (1990), started a process of strengthening minority protection in general and led to the inclusion of minority rights in political declarations of intent, the Framework Convention was another achievement in this process which converted the political declarations and intents into legal terms and it thus became the first legally binding international instrument generally devoted to minority protection (Pamphlet no. 8 of the UN Guide for Minorities 1-2).

The provisions in the FCNM are "programme type provisions" which provide the state concerned with a reasonable measure of discretion for the purpose of implementation of the objectives so that they can take specific circumstances into account. Article 10(2) is considered to be a "model-type provision" which exhibits the flexibility of the language used in the FCNM. The Article states the following:

> In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if those persons so request and where such a request corresponds to a real need, the Parties shall endeavour to ensure as far as possible, the conditions which would make it possible to use the minority language in relations between those persons and the administrative authorities (Council of Europe 1995:5).

The FCNM unlike the European Convention on Human Right does not provide for any reservations. In the light of flexibility of the FCNM for the contracting parties, further "clawbacks" hardly seem to be required. The Framework contains "styled declarations" but they are not decisive in nature. The statements which tend to modify or exclude the legal effect of a treaty constitute reservations irrespective of what they are called. Exclusion is also considered to lead to discrimination. Efforts are made to ensure that the flexibility of the Convention does not replace the basic standard set by the other international legal instruments in place for the purpose of protection of national minorities(Thornberry 2004: 96).

The Framework Convention has had to face flak from its critics. There are still many countries that have still not signed or ratified the FCNM. The provisions seem to offer little new on the already existing international treaties. Moreover, the FCNM is hedged around with an abundance of phrases like "as far as possible" (Academic Dictionaries and Encyclopedias). The realization of rights and the implementation of the undertakings are dependent on the nature and effectiveness of the political structure of the government and the political will of those in power. Thus, it is difficult for an institutionalized and applied minority protection system to materialize which would be able to function efficiently in the whole of the European Union (Gal 2000:12).

XX- The European Charter for Regional or Minority Languages

The Convention for the Protection of National Minorities and the European Charter of Regional or Minority Languages are considered to be the main outcome of the "institutional efforts" aimed at defining a common basis of cultural rights to be granted all over Europe. The European Charter of Regional or Minority Languages is considered to be the most prominent symbol of the efforts made for the purpose of "generating transnational norms" for the purpose of dealing with linguistic diversity in Europe. The Charter seems to be a far more ambitious document than the earlier established international law arrangements in Europe as their aim was limited to the

avoidance of conflicts in a traditional legal sense. It is thus dubbed as a first major approach to "setting common European standards" for the management of linguistic diversity in a manner in which it is in tune with the contemporary view of human rights (Arzoz 2008:88).

The European Charter came into force on 1st March 1998. It is a legally binding document. The Charter states that it aims to promote the historical, regional or minority languages in Europe. It was adopted for the purpose of maintaining and developing Europe's cultural tradition and heritage and to respect an inalienable and commonly recognized right to use a regional or minority language in private and public life (Council of Europe).

Part I of the General Provisions of the European Charter of Regional or Minority Languages defines regional or minority languages and non-territorial languages. Thus, Article I of the Charter states the following:

> For the purposes of this Charter: "regional or minority languages" means languages that are...traditionally used within a given territory of a State by nationals of that State who form a group numerically smaller than the rest of the State's population; and different from the official language (s) of the State or the languages of migrants;.. "territory in which the regional or minority language is used" means the geographical area in which the said language is the mode of expression of a number of people justifying the adoption of the various protective and promotional measures provided for in this Charter;.. "non-territorial languages" means languages used by nationals of the State which differ from the language or languages used by the rest of the State's population but which, although traditionally used within the territory of the State, cannot be identified with a particular area thereof.

The Charter posits specific measures in the areas of "education, justice, administrative authorities and public services, media, cultural activities and facilities, economic and social activities and transfrontier exchanges" to encourage the use of regional or minority languages in public life. Every "Party" to the Charter undertakes to implement a minimum of thirty-five paragraphs chosen from the measures mentioned in the Charter including a number of compulsory measures chosen from a "hard core". Every "Party" has to specify in its instrument of ratification "acceptance or approval" of each regional or minority or official language to which the paragraphs shall apply. The enforcement of the Charter is subjected to the control of a committee of experts which examines reports presented by the "Parties" to the Charter (Council of Europe).

It can be argued that the existing level of diversity should not prove to be a deterrent for the implementation and acceptance of regional and international standards as the principle of subsidiarity gives every state the right to decide as to whether it wants to confirm to the conditionalities or not. Although universal uniformity regarding such standards is certainly not required, the existence of a common core of shared standards is desirable (Alston 1999: 29). There is a lack of precise and concrete regulations to implement the Charter. There are also non-binding recommendations resulting from the monitoring process conducted by the committee of experts. There also seems to be a lack of a clear-cut interpretation in the course of the application of the Charter. Hence, there is the need to involve local and regional authorities more closely in the course of the implementation of the Charter (Mercator International Symposium).

XXI- The European Union

The European Union is yet to develop a specific legally-binding instrument on minority rights but references in treaties to culture and education and to European linguistic and cultural diversity are worthy of serious consideration. The EC Treaty as amended by the Treaty of Amsterdam calls upon the European Union to combat discrimination based on racial or ethnic origin and religion or belief. The EC through it Directive in 2000 has implemented the principle of equal treatment between persons regardless of racial or ethnic origin. It has differentiated between direct and indirect discrimination and has provided for judicial and administrative procedures for redressal of grievances and for ensuring equal treatment within the states. The EC has also established a general framework for equality of treatment in employment and occupation and has proscribed discrimination in the labour market on the grounds of religion or belief (Thornberry 2004: 19).

The EU institutions have concentrated on issues of minority protection such as the respect for different cultural and ethnic identities, the respect for linguistic diversity and combating racism and xenophobia when considering internal community policy especially in the fields of education, media, access to the labour market and free movement of persons. However, a comprehensive and sound minority policy has been lacking and the only allocation from the EU budget entirely for minority protection has been in support of the European Bureau for Lesser Used

Languages largely financed by the European Commission. The Bureau takes care of the autochthonous linguistic heritage of the members of the European Union (Toggenburg 2000).

A more long-standing and solid minority policy has been developed owing to the process of accession and ultimately acquisition of the membership of the European Union by the countries of Central and Eastern Europe. The Europe Agreements and Association Agreements concluded with such states have included relevant provisions pertaining to minority protection (Brandtner 1998).

The EU approach of not paying adequate attention to the issue of minority protection has been summarized thus:

> East European minority nations must be recognized as legitimate groups within their respective societies, and must be accorded group rights... [whereas] in Western Europe, within the EU, minority nations have self-evidently not been protected through the granting of group rights.

Practical "external action" on minorities has included the activities of the Pact on Stability in Europe, the International Conference on the former Yugoslavia and its Arbitration Commission (the Badinter Commission) as well as the stability pact for South-Eastern Europe. The "Guidelines on the recognition of new states in Eastern Europe and the Soviet Union" issued by the Foreign Affairs Ministers in December 1991 includes guarantees for the rights of ethnic and national groups and minorities in accordance with the commitments adhered to in the framework of the CSCE (Thornberry 2004:20).

Similarly, the Copenhagen Criteria for Membership adopted by the European Council in 1993 requires the candidate countries to establish respect for and protection of minorities. The other legal instruments such as the European Convention on Human Rights, the Framework Convention for the Protection of National Minorities and the Charter of Fundamental Rights may leave us a tad bit disappointed because of the absence of specific mention of minorities and measures pertaining to their protection but nevertheless, they do encapsulate the spirit and intent of protecting the minorities. The EU institutions should launch a number of programmes that shall seek participation of the civil society and engage in the exchange of

knowledge and experience among governments and societies in order to raise awareness about minority rights and issues and ensure their complete protection.

XXII- Halfway Through the Challenge

Every declaration, convention, charter, treaty and directive expatiating or even mentioning the issues pertaining to minority protection have been considered nothing less than a grandiose commitment by all those who are concerned about the plight of the minorities. Every legal instrument has been considered to be an improvisation upon the previous one as new aspects, dimensions and provisions have been added to it. However, there remain vacuoles and lacunae in every legal initiative that has come to the fore. Hence, the real test lies in plugging the chink in the armour by ensuring the effective implementation of the legal instruments in place.

****

CHAPTER 3

THE RELEVANCE OF MINORITY PROTECTION IN CENTRAL AND EAST EUROPEAN COUNTRIES

The following chapter examines the degree of success achieved on the ground by means of EU intervention in the field of minority protection. It tries to gauge the difference in the approach and level of commitment of the countries of Central and Eastern Europe towards the cause of the minorities. It tries to assess as to whether or not the European Union can be considered to be a role model for championing the cause of the minorities.

I - A Deal Worth Doing

The European Union made it very clear that the accession states had to comply with the EU standards concerning minorities before they could be granted the membership of the European Union. Laws that were looked upon as discriminatory to minorities and the policies that acted as hindrances for the minorities in the social, economic and political spheres were "red flagged" and the European Union asked the country to make amends to their policies pertaining to the minorities for becoming members of the European Union. Hence, the European Union seemed to take cognizance of the issue of respect for and protection of minorities in the Central and East European countries.

The issue of minority nationalism and the rights of minority populations has gained tremendous salience in the European Union (Kupchan 1995). It would thus appear that the European Union was conducting the accession negotiations in an extremely responsible manner as it imposed restrictions on the prospective member states with regard to the steering of their minority policies. This exercise on the face of it appeared to be one in which the experienced democracies of Western Europe were tendering advice to newly democratic states of Central and Eastern Europe who were preparing themselves to become part of the European Union. However, this perspective on the ongoing negotiations could be validated on the condition that the laws that were found to be objectionable in Central and Eastern Europe were

subjected to the same treatment in Western Europe. But this was not the case and there was a resultant unease and concern regarding the amount of changes that the candidate countries were made to bring about in order to fulfil the EU conditionalities. Cameron was of the opinion that the candidate countries would have agreed to adopt the entire aquis of the EU with only a few transitional phase-ins (Cameron 2003: 25). Moravcsik and Vachudova had similar sentiments which they expressed thus:

> ...many of the changes the East has been forced to make do not reflect the laws of the West...the accession process imposes something of a double standard in a handful of areas, chiefly the protection of ethnic minority rights, where candidates are asked to meet standards that the EU-15 have never set for themselves (Moravcsik and Vachudova 2003: 46).

The states of Central and Eastern Europe seemed to be striving for two mutually conflicting aims at this critical juncture. The first was the necessity of being accepted into the European Union and the other organizations of Europe for the sake of economic and security advantages and their perpetual well-being. The second goal was of safeguarding their culture. It was felt by these states that it is necessary to enact such laws that shall ensure the survival of their language, culture and society. Laws that tend to protect one culture put the other culture at a disadvantage. The European Union had declared the elimination of laws that provide protection to a particular culture. It was largely felt by the states of Central and Eastern Europe nevertheless that the membership of the European Union makes sense and it is worth making changes in their laws.

II - Salience of Minority Protection as Part of EU Conditionality

The accession of the countries of Central and Eastern Europe to the European Union has been a process of massive policy transfer. As a part of the non-negotiable basic clauses, the new members have had to transpose the full aquis communitaire which has grown into a gigantic document which includes over 80,000 pages of legislation. The political conditions to be fulfilled by the minority groups do not form part of the aquis but they were nonetheless considered to be the "condition sine quo non" for the starting of accession negotiations and finally membership itself.

The European Union's policy of transfer in the area of minority protection has been explained with the help of an "external incentives model" which is known to be the

rationalist bargaining model. The actors are believed to be "strategic utility-maximisers" who are interested in the maximization of their own power and welfare. They are known to engage themselves in a bargaining process in the course of which they exchange information, threats and promises and the outcome is subjected to their relative bargaining power. The conditions for effective conditionality were considered to be favourable on account of the sharp asymmetry that existed between the European Union and the Central and East European Countries. The Central and East European countries would have had a moderate impact on the economic status of the member-states but the former were heavily dependent upon access to the European market and on capital flow from the European Union. The bargaining power of the European Union was extremely high because it was widely acknowledged by both sides that the Central and East European countries would gain much more from accession to the EU than the EU itself (Baldwin et al. 1997: 46-52).

The European Union set its rules as conditions that the Central and East European Countries had to fulfil for the purpose of being rewarded by the European Union in different spheres as part of its strategy of political conditionality. The reward consisted of assistance and institutional ties pertaining to a whole range of issues from trade and cooperation agreements through association agreements to full membership. EU conditionality adopted a strategy of "reinforcement by reward". The European Union granted the reward if the target governments fulfilled all the conditions and withheld the reward if it failed to comply. The EU however, played no role of intervening either coercively or supportively to bring about a change in the cost-benefit assessment and in the consequent behaviour of the target government by imposing extra costs (reinforcement by punishment) or by offering extra benefits (reinforcement by support). It was totally left upon the discretion of the target governments as to whether or not they wanted to comply with EU conditions. The government which failed to comply with the conditions was excluded from the material and institutional reward offered by the European Union and therefore lagged behind in the competition over resources and accession (Schimmelfennig and Schwellnus 2006: 3).

The starting point of the analysis of the bargaining process can be considered to be a "domestic status quo" which stands for the prevailing distribution of preferences and bargaining power in domestic society. Every single change brought

about in this status quo leads to a cost which is incurred by the actors seeking the change. The domestic equilibrium is endangered by the EU conditionality as it introduces additional incentives for compliance with the European Union into the game. The conditionality proves to be effective only when the benefits are sufficiently conditional, determinate, credible and high and they exceed the domestic costs of compliance with EU conditions. The size and magnitude of the EU incentives are two conditions which have proved to be extremely important to the effectiveness of EU conditionality although they tend to vary with time. The studies on political conditionality have shown that a "credible and conditional membership perspective" for the target states was a mandatory condition for the adoption of initially contested political rules. Credibility in this case refers to both the promise of membership and risk of facing exclusion from the accession process if "rule adoption" is not accepted (Kelly 2004).

The element of conditionality does a disappearing act as a mechanism of policy transfer once the process of accession is complete. This leads to the regaining of salience by the domestic factors. The situation however differs from that of the beginning of the accession process as the main issue of consideration does not remain any longer of that of whether the advocates of compliance with EU conditionality succeed in getting past a non-compliant status-quo. The matter which in fact surfaces at this juncture is as to whether or not the opponents are able to reverse the changes that have already taken place. The impact of EU conditionality depended considerably on domestic factors. Changes in the political party in power led to significant improvements in quality of rights guaranteed to the people. The countries where ethnic nationalism particularly gained salience such as in Romania and Slovakia, domestic politics seemed to militate against the influence exerted by external factors on minority protection(Rechel 2008 :172).

III- Deficiencies of the Aquis

Minority rights became a central part of the political conditionality on account of their inclusion into the Copenhagen criteria although they are not an EU norm codified in Community law. This led to the subjection of all the candidate states to monitoring before and during the accession negotiations on a regular basis with regard to the protection of their minorities. However, despite the fact that the conditions were

oriented towards the standards of other international organizations, different candidate states were subjected to very different demands. For instance, the European Union referred "at different times and in different cases" to the recommendations of the OSCE High Commissioner on National Minorities (HCNM) who often formulated his proposals based on situation-specific grounds rather than on the principled considerations rooted in his conflict-prevention oriented mandate which existed in the form of Recommendation 1201 of the Parliamentary Assembly of the Council of Europe of 1993 which included autonomy as a collective minority protection concept and the Council of Europe's Framework Convention on the Protection of National Minorities (FCNM) of 1995 as the central points of reference.

The central questions regarding minority rights such as the definition of minorities, the question whether granted rights should be limited to citizens or not and the fierce debate between advocates of individual and collective concepts are still matters of debate and discussion. Minority protection can therefore be considered to be an unclear norm which provides a large scope for interpretation which is not sufficiently made precise by the vague and general formulation of the Copenhagen criteria. It is only by the means of explicit, repeated and detailed specific demands that the European Union is able to produce at least a minimum degree of "determinacy" regarding the membership criterion of minority protection (Schimmelfennig and Schwellnus 2006 : 10)

The monitoring of minority rights by the European Union as a purely political condition devoid of any backing in the Community law ends in principle with accession. The great amount of attention given to minority issues notwithstanding, "the adaptational pressure" exerted by conditionality on the new members decreases sharply with the date of accession. One of the distinctive signs of such a development is that the final progress reports on the participants of the 2004 enlargement round no longer mention the political criteria and minority protection and seem to solely focus only on the transposition of the aquis communitaire (Sasse 2005:8) The European Union shall therefore lack the instrument of legal sanctions till the time the European Union has an "EU minority standard" in place.

The European Union has undoubtedly received accolades from numerous quarters for its "clearly specified entry requirements". However, this did not seem to

have prevented the then Commissioner for Enlargement Gunter Verheugen from claiming that "clear criteria and testable benchmarks" were often absent (Hughes *et al.* 2004:1). The Copenhagen Criteria did not seem to lay down clear yardsticks or define the process by means of which EU conditionality could be enforced and verified which led to the dissipation of their impact at the domestic level. Although the Copenhagen Criteria was generally mentioned and specified to a certain degree in the Accession Partnerships, candidate countries faced a fair degree of uncertainty with regard to the precise expectations (Grabbe 1999).The inevitable fallout of this ambiguity was that the burden of EU conditionality fell on the "technical" requirement to accept and adopt the holy cow of 80,000 pages. Thus, the European Commission itself noted that:

> Incorporation of the aquis by the candidate States in their legislation, and adaptation of their capacity effectively to implement and enforce it remain the key conditions for progressing in the negotiations.

The aquis has dealt with different policy areas in different degrees. Hence, it does seem to provide a "detailed regulation" of some policy areas but other areas such as that of minority protection seem to not have been adequately covered in detail by the aquis. A conditionality gap surfaced which resulted in the explicit form of pressure to be weak and it resulted in an increased risk of inconsistency.

The lack of clarity of the aquis in some policy areas majorly weakened the influence of conditionality and increased the availability of liberty to the candidate countries. The areas where the density of the aquis was considered to be at a low level, the candidate states were "free to pick and choose or ignore prevailing Western models" (Jacoby 2004: 16).

The European Union has not developed comprehensive standards and consequently the Copenhagen Criteria for minority protection happens to be vague and unclear. The EU legislation important for minority rights was adopted only in 2000 and remained restricted to non-discrimination. The Treaty of Amsterdam of 1997 strengthened the necessity for EU member states to respect human rights and fundamental freedoms and it also stated that any violation of democratic principles shall lead to suspension of membership. Article 13 of the aquis nevertheless called upon the EU to combat discrimination based on racial and ethnic origin. The European Commission has drawn up three elements to implement this article which

include implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, establishing a general framework for equal treatment in employment and occupation and setting up a community action programme to combat discrimination. The Constitutional Treaty of 2004 was the first "constitutive document" of the European Union that mentioned "rights of persons belonging to minorities". However, the document failed to win the approval of all member states (European Navigator 2004).

The European Union is known to have generally encouraged candidate countries to implement Council of Europe and OSCE recommendations, which has increased the weightage given to these organizations. The use of OSCE recommendations affected the tenacity of the Central and East European countries of holding on to the benchmarks set by the EU. The EU conditionality was further impacted upon by the "absence of a single EU policy template" in many policy areas. The "practices" in EU member states are varied and "old" EU member states such as France and Greece have not even acknowledged the existence of ethnic minorities on their territories. This makes it difficult for the EU to come up with easy solutions and it has thus been unable to establish itself as a role model (Ram 2003:47). There have therefore been no "easily transferable models to emulate" for managing and dealing with ethnic and religious diversity. It is therefore difficult to comprehend as to how the treatment of the Turkish minority in Germany is principally different from the treatment meted out to the Russian speaking minorities in Latvia and Estonia. Besides this, many Roma in Western Europe are subjected to a great deal of discrimination and harassment while the Roma asylum seekers from the Central and East European countries have been unceremoniously turned away and deported to their countries of origin (Johns 2003: 693-694).

IV - Subordinated Concern for Minority Rights

The absence of parity between an active external policy stance and a subordinated role at the internal EU level has been highlighted in the area of human rights. The double standards are even more obvious with regard to "respect for and protection of minorities" as the Copenhagen Criteria have been applied only to candidate and not to "old" member states. Double standards have also become

apparent in the adherence to the Council of Europe's standards. The European Union opted for selective mandatory adoption of the FCNM by the states of Central and Eastern Europe without urging "old" EU member states to follow the same legal norms (Alston 1999:7).

The allegation that human rights played a secondary role in the accession process is one of the most serious charges levelled against the political conditionality of European Union. It is widely believed that the major reason for the choice of political criterion of minority protection was the desire to ensure regional stability rather than any genuine concern for minority rights. Geopolitical considerations were accorded much more importance than human or minority rights. EU conditionality was confined to merely being a declaratory policy in some areas (Hughes 2003:169). Thus, the attention paid to the protection of minorities in EU candidate states was dictated by the concern for maintaining regional peace and security in the beginning of the 1990s. Thereafter, the Roma minority captured a lot of attention which was a reflection upon the increase in international coverage of Roma issues as well as an increase in the number of asylum seekers among the Roma. An honest concern for human rights as well as minority rights was conspicuous by its absence in both cases.

The enlargement negotiations gained pace after 1997 and it was followed by a decline in political conditionality as a significant factor for accession because all candidate countries were assumed to have fulfilled this criterion after 1999. The decision of the Helsinki summit in 1999 for a "big bang" enlargement indicated that accession conditions would not be strictly applied (Burton 2002: 4). The European Union seemed to have focused on economic development rather than on preparing the countries to meet the political criteria of membership. Hence, the foremost concern of the European Union was with markets rather than democracy and human rights. The ultimate goal was to secure the "transposition" of the aquis rather than work towards promoting the consolidation of a democratic society (Hughes 2003: 24-25).

For instance, the fear of Roma migration to the "old" EU member states seems to have been the reason behind the manifested anxiety for the Roma. When the Roma migrated to the West, they were not welcomed and were very often deported back to the country from which they came from. The reaction of the United Kingdom towards the Roma who immigrated from the Czech Republic was nothing less than hysterical

as the immigration officials began screening suspected Roma asylum seekers at the Prague airport (Guy 2003:73). Such an attitude for minorities in the "old" member states was bound to render the response of the Central and East European countries to be perfunctory and the guidance of the European Union to be largely unsustainable (Petrova 2003: 149).

V - Double Standards

A real and palpable tension exists between the member-states of Western Europe and the new democracies of Central and Eastern Europe. The new member-states of Central and Eastern Europe have always felt that they have been judged on the basis of higher standards as compared to that of the states of Western Europe. Taking a cue from this, Chandler is of the following opinion:

> ...the vast majority of the then members of the EU had no conception of how to apply such policies in relation to their own minorities or of accepting such a level of international regulations in the affairs of the state (Forsythe 1994: 66).

The member states belonging to Western Europe have chosen to ignore the regulations instead of adapting them. Germany does not consider the Turkish minority to be a national minority of the country by means of taking advantage of a technical loophole. Germany claims that they are actually a "new minority" and therefore it would not recognize them as a minority.

Sweden and Denmark have also clearly stated as to which minority groups would be entitled to protection for the purpose of safeguarding their cultural rights. Austria provides limited protection to citizens while Luxembourg claims to have no minorities at all and thus they argue that the treaties pertaining to minority rights do not apply to them at all. France, Greece and Netherlands are known to have refrained from signing treaties that provide for minority protection (Wilson 2002:10).

The Russian minorities of the Baltic region and the German Turks have been subjected to strict restrictions for gaining citizenship and have also faced discrimination by the state. Kymlicka has therefore stated that "multiculturalism without the offer of citizenship is almost invariably a recipe for, and rationalization of, exclusion" (Kymlicka 2001:171).

It is clear that the treatment of the Turks in Germany is similar to that of the Russians in the Baltic. The basis of citizenship is ethnicity and the procedure in place to acquire citizenship is dotted with barriers which are found to be insurmountable by the minorities of these states (Johns 2003: 694). It therefore becomes apparent that the same standards ought to be applied in the case of both the old and new member-states of the European Union in order to check all kinds of discrimination against minorities.

VI - Permeation of Slackness from the EU to the Member-States

The candidate countries were given the green light for membership despite the largely unchanged condition and continued violations of minority rights (European Centre for Minority Issues 2004: 198-199). The exponential increases in the PHARE support to minorities of Central and Eastern Europe notwithstanding, very little tangible change has been felt on the ground. The living conditions of minorities have largely remained the same and have not improved. The conditionality of EU membership has therefore proved to have acted as a powerful leverage but it did not contribute in a significant manner in improving the condition of minorities (Petrova 2003:148). This has been admitted by the European Union itself. It noted that the "situation has not evolved much" in the case of the minorities in Bulgaria. Similar observations were made in the context of the Czech Republic. However, all the post-communist candidate states met the criterion of "respect for and protection of minorities". The European Union declared that the candidate countries satisfied the accession criteria despite continuing violations of the minority rights and the principle of non-discrimination (Rechel 2008: 184). The continuing irritants and unresolved issues in the area of minority protection seemed not to have been considered an obstacle to accession.

The incentive for governments to continue to give more often than not unpopular support to minorities once membership has been achieved inevitably subsides to the bare minimum (Ram 2003: 17). Thus, it becomes difficult to thwart a "tacit policy consensus" (Hughes and Sasse 2003: 28) to ignore the issue of minorities that seems to have emerged as a result of the laxity on part of the European Union. The political climate owing to the negligence of minorities in the former candidate states in due course of time may worsen significantly. One of the ways in which such a threat can be counteracted is by having in place a monitoring system that shall

extend to all EU member-states. However, no such system of this nature exists at present.

VII - Absence of Skill and Acumen to Deal with Minority Issues

The European Union neither has in place a "full-fledged human rights policy" nor can it boast of possessing the much needed legal competence for dealing with human rights issues (Alston 1999:7). The political criterion seems to have been made unclear on purpose keeping in mind the drawbacks and weaknesses of the EU in handling issues pertaining to this area. The European Union undoubtedly has only limited expertise in the area of minority rights (Burton 2002: 9). One of the top-rung officials of European Commission is known to have admitted the following:

> "...as an organization, where should our capacity to benchmark these things come from?...the mission of the European Commission is not, like that of certain other organizations, to be the champion and have the expertise on minority issues; it is not our prime job" (Rechel 2008: 185).

VIII - Flawed Monitoring

The monitoring procedure adopted by the European Union has been constantly put under the scanner. It is believed by some that the accession requirements were painstakingly and "closely enforced" while others have expressed their dissatisfaction with the manner in which the monitoring of the candidate states was brought about (Vachudova 2001:13). It has been alleged that the European Commission's Regular Reports were extremely general and vague. The nature and content of the information included in the report often proved to be quite controversial and the analysis happened to be rather superficial devoid of any insight into the problem and "related more to de jure rather than the de facto situation" (Alston 1999:689-691).

The Regular Reports were often inconsistent and were characterized by 'ad hocism". A number of inaccuracies in the Reports have also been pointed out. For instance, in the 1999 report, the European Commission mentioned the "Turkish minority" when discussing the Framework Programme for Integration of the Roma minority. Likewise, the Regular Report of 2000 noted that "Ombudsmen offices had been set up in a number of municipalities on a voluntary basis" which was actually not the case.

IX - Skewed Nature of Focus on the Roma

The European Commission seems to have mainly focused on two minorities which are the Russian-speaking minorities in Estonia and Latvia and the Roma in Bulgaria, the Czech Republic, Hungary, Romania and Slovakia. The Regular Reports on Bulgaria seem to have exclusively focused on the Roma minority. The Turkish minority has been described in the Regular Report of 1998 as "fully integrated and represented in political life" which happened to be far from the truth and this assertion was repeated in the subsequent Regular Reports. The other minorities of Bulgaria such as the Pomaks and Macedonians who have been denied recognition by the Bulgarian authorities find no mention in the European Commission's Regular Reports as well despite the fact that the European Court on Human Rights held Bulgaria guilty of violating the right to freedom of assembly and association in 2001. Despite this, the Regular Report of 2003 noted that "there are hardly any cases of direct application of the Convention's provisions or of the jurisprudence of the European Court of Human Rights".

The European Commission seems to have ignored the documentation on Macedonians in Bulgaria by the European Charter for Regional or Minority Languaguaes, the US State Department and Amnesty International. The same attitude was adopted in the case of the Pomaks who were simply referred to in passing as Slavic speaking Muslims who should also find mention in the EU documents. The Regular Report of 2004 contained an oblique reference to the Pomaks who were mentioned as "other minority groups who live in economically less developed regions". It would not be wrong to assume that the priority given to regional stability and Roma migration rather than to minority rights and the drawbacks and that the European Union suffers from in the area of human and minority rights are the reasons for such acts of omission and commission (Rechel 2008: 185-187).

X - Unfavourable Public Attitude towards Minorities

It has widely been felt that the European Union did not pledge significant financial assistance for the protection of minorities. The PHARE programme did not even have a "separate budget line" for minority protection and only about 1 per cent of the total PHARE funds were set aside for the "civil society and democratization" (Hughes and Sasse 2003 :20).

The inability to address public attitudes towards minorities in candidate countries has adversely impacted upon the potential impact of EU conditionality. Attempts at overcoming the racist attitudes among the general population have been "neither the focus nor the result of EU intervention". The focus of the European Commission has been on government institutions and programmes rather than on bringing about desirable and long-term changes in the public attitude towards minorities (Burton 2002:7-9). The infrequent nature of political dialogue on "EU requirements" has led to the imposition of policies emanating externally which has militated against the creation of political unanimity for the purpose of bringing about reform in various sectors. The EU requirements have often discouraged domestic discussions which would have led to the building up of popular support for facilitating enforcement (Ram 2003: 51). The framing of a certain minority community as an impediment that could possibly halt accession has very often worsened the hostility towards them (Burton 2002:9).

XI - The Shadow Reports of the NGOs

The non-governmental organizations engaged with the promotion of minority rights contribute towards making the minority communities aware of their rights. The shadow reports prepared by the NGOs have highlighted several interstices through which the room for resentment and violation of minority rights becomes a likely possibility.

The official census data for the purpose of analysis of minority protection is not considered to be very reliable and it creates problems such as in the case of Slovenia and Croatia where the status of the non-Slovene and non-Croat former permanent residents who have been denied citizenship has proved to be problematic.

Adequate financing is indispensable for the purpose of minority protection in totality and also for ensuring the participation of minorities in elections. The lack of funds becomes an obstacle in the implementation of the guaranteed minority rights as well as the basic international minority standards.

The propagation of negative stereo-types and the use of hateful political statements pertaining to national and in particular to ethnic minorities through the media are quite common in several states of the region although all such activities are

strictly proscribed in the domestic laws and the FCNM. Such activities are generally seen in the case of the Roma population.

The Roma issue is and shall continue to be in the future the most controversial issue in the framework of overall minority protection in the region of Central and Eastern Europe. Although a lot has been pledged to be done through the various legal instruments, the Roma continue to suffer in various states of Central and Eastern Europe such as Czech Republic, Hungary, Slovenia and Romania (Gal 2000 :11-12).

XII - The Ever-lasting Turmoil in Central and Eastern Europe

Central and Eastern Europe has retained its historic character of being a region of fragile relations between states and ethnic or religious groups. The problem pertaining to minorities continues to be ever-present and extremely explosive in many areas and on the borders of Central and Eastern Europe. Although the area is not currently rife with conflict as in the past, the presence of ethnic of religious minorities is "characteristic" of almost every state in Central and Eastern Europe. The nation-states that emerged from the ashes of the Russian and Hapsburg Empires had the same multi-ethnic composition as the Empires. The "ethnic cleansing" that was executed during and after the Second World War for the purpose of complete expulsion of the so called undesirable groups failed in the creation of ethnically homogeneous nation states. In fact, Central and Eastern Europe has proved to be a boiling pot of discontent where very sharp differences and disagreement exist between the States and their minorities.

The reason for such discord can be attributed to the existence of conglomerate states such as Yugoslavia where an attempt was made to "weld together" different nationalities. But the effort proved to be a failure as the state has been constantly rocked by turbulence leading to the balkanization of the state with its reverberations being felt in its near and distant neighbours. The nationalities reasserted themselves which led to the structure of the state to become extremely fragile (World Directory of Minorities 2008).

The Hungarian minority community in Romania represents another typology of minorities existing in Central and Eastern Europe. The transfer of Transylvania to Romania from Hungary in 1919 resulted in the creation of the Hungarian minority in

Romania. Hungary continues to be a "kin-state" which refers to the system by which "an increasing number of European states regulate their responsibility on behalf of the members of minorities living outside the state's borders by international law". This system was adopted by many countries including Slovenia, Slovakia, Greece, Romania, Russia, Bulgaria, Italy and Hungary. This system gained prominence when Hungary accorded a special status to the members of the Hungarian communities living in the neighbouring states of Slovenia, Croatia, Serbia-Montenegro, Ukraine and Slovakia apart from Romania (Thomas 2006).

A third type of minority is represented by the Turkish groups. It is extremely difficult to distinguish between religious and ethnic elements. The Roma can be called the fourth kind of minority present in Central and Eastern Europe. They are a minority group which has been "long established, numerous and culturally distinct from their neighbours". Thus, the political, ethnic and social cocktail of Central and Eastern Europe provides distinctiveness to its involvement with minorities.

The disintegration of the Soviet Block has by no means led to the blunting of multi-ethnic diversity of nation-states of Central and Eastern Europe. Minorities continue to remain a subject of contention in case of the large Russian populations in the Baltic States and the prominent Hungarian minorities in Slovakia and Romania, from the ethnic and religious fragmentation of the Yugoslav successor states to the small but quite significant German-speaking population in Poland.

The integration of minorities has not been a resounding success in every area of Central and Eastern Europe. Discord between titular nations and minorities are not events from the distant past and are in fact contemporary realities. The clash between Russians and Estonians which took place in Estonia in 2007 as a reaction to the removal of a Soviet war monument bears testimony to this fact and so does the simmering conflict involving the Hungarian minority in Slovakia as well as the accompanying rise of Hungarian nationalism. These events lend support to the expected lasting potential for conflict in national minority politics and ethnic and religious interests in the region of Central and Eastern Europe (Leibniz Universitat, Hannover Summer Academy 2009).

The minorities of Central and Eastern Europe are more likely to emigrate elsewhere because their language is not recognized by the state. Therefore ethnic

discrimination is playing a role in encouraging migration from the states of Central and Eastern Europe that have significant minority communities. Even a minor discrimination of ethnic, linguistic, racial or religious character is bound to lead to higher rates of emigration in minorities especially among those who are skilled labourers. When the minority students graduate and become highly skilled, they also start mulling over the fact that they should move elsewhere on account of the fact that their mother tongue is not recognized at the workplace. The countries of Central and Eastern Europe are facing or are likely to face soon "a minority brain drain". It therefore becomes extremely essential for EU nations to ensure the integration, respect and non-discrimination of ethnic and linguistic minorities (Immigration News 2007:1).

XIII - Politicisation of Minorities

A rejuvenation of ethnic identity has taken place after more than forty years of "statist centralism" and "socialist internationalism" with the pulverization of communist rule and the collapse of multinational federations in Central and Eastern Europe. Almost all states of the region have witnessed ethnic and regionalist movements which have been launched for demanding for political self-determination, a role in national decision-making and a more equitable distribution of economic resources. The aspirations of the majorities and the minorities and that of different ethnic communities have led to confrontations resulting in conflicts that have endangered the progress of democratic reform. It is however, a means by which the minorities seek to forcefully assert their identity (Bugajski 1993: 85).

Ethnic politics in the post-communist phase can be divided into variants which may not be mutually exclusive or permanent even among a single nationality which may consist of several competing political organizations and in certain cases they can also be viewed as potential stages of development.

Cultural revivalism is a phenomenon which can be seen in the case of small or dispersed ethnic, religious or regional minorities who make demands for freedom and resources for rebuilding their social, cultural, religious and educational institutions for the purpose of redefining their history, for reinforcing their identity and for reviving their dialect or language. These objectives may be framed for the purpose of increasing minority participation at the regional and local level rather than as a

challenge to the state. A comprehensive cultural revival has been witnessed throughout Central and Eastern Europe among the Roma population which has had to bear the brunt of a lot of prejudice and discrimination.

Political autonomism is characterized by a form of self-organisation among minority groups who were part of a majority community in previously existing states. They generally possess a history of organized political movement in a multi-ethnic state or their ethnic compatriots constitute the majority nationality in a neighbouring state. Such movements are found among the Hungarians in Slovakia and the Romanian region of Transylvania. The demand for political autonomy rather than territorial self-government is made in multi-ethnic regions where no single group emerges as the dominant group and the regime allows the active participation of minorities in political life (Bugajski 1993: 89-91).

Separatism is a political tendency by means of which ethnically and territorially compact populations oppose inclusion in the existing federal or unitary state which is inhabited by them and they campaign to create their own structures. Such movements have involved Slovenes and Croats.

Irredentism refers to the phenomenon by means of which one state may seek to join their territories and populations with another existing state either as an autonomous region or as an integral administrative unit. The example of separatist-irredentists includes Croats in Bosnia-Herzegovina and Serbs in Croatia as well as Bosnia-Herzegovina (Bugajski 1993: 95-96).

The continuing emphasis upon neutrality and selective focus on human rights shall in no way help in solving the problems of Central and Eastern Europe. In fact, neglecting the issue will amount to giving the governments the go-ahead for pursuing the process of assimilation which shall have the adverse impact of undermining the identity of distinctive ethnic, cultural and religious minorities. This shall further provoke conflicts between neighbouring states and threaten regional stability (Bugajski 1993: 99). However, this can be checked by means of early and consistent involvement of international institutions such as the European Union that can oversee and directly assist the democratization process and help each country in persistently observing international standards and isolating its citizens from all kinds of ethnic polarization and other dangers linked to it.

XIV - Minority Activism in the International Sphere

Ethnic relations in the domestic sphere are bound to be affected by international politics. The first field is that of sociological literature on the nature of minorities. Roger Brubaker believes that national minorities should "not be seen as fixed entities but rather as dynamic and relational political fields". Brubaker along with other sociologists has pointed out that being a minority is not only about a person's ethnic or national identity but rather a product of the processes of identification and categorization in which the political action plays the important role. The language of national identity is used by leaders, activists and politicians for the purpose of mobilizing people for specific identity projects and consequently the battle cry of majorities and minorities is evoked. Brubaker opines that nationalism should be seen as the resultant product of a "relationship between three dynamic and contested political fields" which includes national minorities, nationalizing states and external homelands respectively (Brubaker 1996: 66-67).

Thus, ethnic relations result from the continuous interaction between the minority activists, state actors and actors who are related to the external homeland of a minority population. The experience of belonging to a minority community is closely connected to the manner in which political actors make use of the language of national and ethnic identity. Hence, any changes in case of the nationalizing state or external homeland shall have an effect on the national minorities. Hypotheses have been formulated based on this model about the definite influence of "external lobby actors" in increasing the bargaining power of a minority in the context of a dynamic interplay between the state and minority activists (Jenne 2007).

It had become very clear early in the day that the New Europe shall be dominated by the European Union and it was for all to see that it possessed the power to influence law-making pertaining to minorities and their identity. Therefore, this element ought to have been taken into account by Brubaker in his analysis. However, since this factor seems to be having only a selective impact on some of the countries of Europe, it indicates that the balance between the majority and the minority in the case of some states happens to be skewed (Johns 2003:686).

The proponents of the phenomenon of globalization have emphatically stated that political opportunities are not limited to the domestic domain. They believe that

social movements are impacted upon by "global processes" which include the growing might of intergovernmental institutions and multinational corporations and the increasing world-wide coverage of the media. Activists have begun crossing the borders of the state and have hit upon "new opportunities and resources" by utilizing these global processes for the purpose of influencing both state and non-state actors (Keck and Sikkink 1998).

The approaches based upon these opportunities and resources argue that movement formation is greatly influenced by the dynamics of transnational politics. In the light of this insight, it can be hypothesized that all the happenings that are taking place by making use of the European Union as a platform have led to a significant enlargement of the transnational opportunity structure which has facilitated the process of ethnic mobilization for the purpose of safeguarding minority rights especially in the "new" EU member states (Guidry *et al.* 2000).

XV - The Requirement of a Stronger Resolve

It does seem that the protection of minorities in Central and Eastern Europe has been adequately provided for by the European Union and the governments of the member states. However, the fact remains that the establishment of a legal framework for minority protection by means of adoption of the various constitutional principles of the aquis and the various principles of domestic legislation have not led to the automatic fulfilment of obligations towards minorities in practice.

The realization of rights and the implementation of undertakings are dependent to a very large extent upon the political structure of the government and the political will of those wielding power. Therefore, it becomes difficult to claim that a completely durable and institutionalized minority protection system has been established and the effective implementation of standards has been secured. There has thus traditionally been a large discrepancy in several countries such as Slovakia, Romania, Ukraine and Moldova between the written word of the law and the situation on the ground. This is generally due to the fact that legal provisions can be curtailed by government decrees or circumvented by local decrees (Gal 2000: 12).

Toggenburg is of the view that the European Union should design a European framework for the protection of minorities. He is of the opinion that:

> ...this is even more true for groups or constellations which show a clear transnational element such as minorities distributed over of the territory of more than one member state or minorities which are dispersed over all the EU territory such as the Roma.

It therefore becomes possible to conceive that the European Union would provide a uniform European standard of protection to the minorities which the member states recognize on their territory and that it would come up with a "brave EU directive on the material protection of minorities inside member states which is inspired by the standards developed by the Council of Europe, the OSCE and the European Commission (Toggenburg 2003:279).

The instruments that are to be introduced at the EU level need not focus directly and exclusively on the protection of minorities in the stricter sense. The status and weightage of minorities hinges on the diversity-unity debate in Europe. It is consequently in the interest of minorities to utilize and add vigour to "carrier concepts" such as cultural diversity, regional autonomy and linguistic diversity within the legal set-up of the European Union (Toggenburg 2003:7).

It is also desirable to take measures at the political level such as the introduction of a separate heading in the respective annual Reports on Human Rights of the Council and the Parliament focusing exclusively on the protection of minorities in the member-states. This kind of reporting of the institutions might help overcome the vacuum left after the sudden end of the monitoring exercise carried out by the Commission in the course of the accession process. The creation of the post of an "ambassador for minorities" in the European Parliament would also help in raising awareness regarding the protection of minorities inside the new EU system (Peers and Ward 2004).

Minority leaders must also diligently observe their obligations towards the state. They ought to affirm to the legitimacy and territorial integrity of the state in principal when minority interests are reasonably respected and represented. If they do so, they will be in a much better position to take recourse to international intervention and mediation as a means to pressurize the governments to enshrine minority rights in appropriate legal documents. Although such measures shall not completely "eliminate all the wellsprings and occasions of conflict", they can always help in providing a basis for dialogue and compromise (Bugajski 1993:99).

XVI- Pro-active Attitude of the EU

An integrated strategy is what is required for making effective minority protection a reality. Minority issues cannot be simply seen as an issue of legal framework or political will. These factors are undoubtedly the most crucial for ensuring the protection of minorities but other factors such as the conflict potential generated by links between ethnicity and economic transition as well as regional underdevelopment need to be taken seriously. Even the most advanced legal framework will not be able to handle issues pertaining to minorities and inter-ethnic relations flawlessly as interstices if not gaping holes can be identified between standards and practices almost everywhere in the European Union (Gal 2000:13). The European Union has undoubtedly brought about a qualitative change in the status of minorities in Central and Eastern Europe. It can however still pioneer desirable and revolutionary changes in legislation and instruments of implementation of minority protection which would undoubtedly change the lives of the minorities of Central and Eastern Europe for the better.

****

MINORITY RIGHTS PROTECTION IN THE BALTIC STATES: A CASE STUDY OF ESTONIA, LATVIA AND LITHUANIA

This chapter is a case study of Estonia, Latvia and Lithuania. It tries to estimate the degree of influence of the European Union in policy-making on the issues of minorities in these three states. It also tries to find out the extent to which the Baltic States adhere to the EU minority standards.

I. Estonia

Estonia has often been typified as the "ideal candidate" for consociationalism or ethnic federalism. The first reason for this categorization is that the population of this country is basically made up the Estonians and the Russian-speakers who form the two main ethnic groups of Estonia. The two ethnic groups could have established a bi-national partnership just before the restoration of independence from the Soviet Union in 1989 as the proportion between the groups was approximately 62 per cent to 35 per cent out of a total population of 1.5 million. A considerable chunk of about 35 per cent of the Russian speaking population was settled in the north-eastern county of Ida-Varumaa which compelled one to make the assumption that even if full-fledged consociationalism could not be realized, the granting of a separate status for the region could be a strong possibility.

(i) - Emergence of Independent Ethnic Nation-state of Estonia

The two main features of consociationalism are that the ethnic groups should be historically indigenous populations and there should be relatively limited barriers in social communication and interaction (Bogaards 2000). Estonia did not fulfil both the conditions in the late 1980s and the early 1990s. The Russian-speaking population came to be a part of Estonia as a result of the Soviet rule in Estonia beginning in 1940. The Russian-speakers constituted 3 per cent of the population in 1945 and this proportion rose phenomenally as a result of the influx of communist cadres from the rest of the Soviet Union and large-scale labour migration which was encouraged. The

Russian-speakers represented over 22 per cent of the population by 1959 which increased to about 35 per cent by 1989 (Taagepera 1993).

Map 1: Estonia

Source: http://maps.mygeo.info/maps_eu_ee.html.

Table1: Key Indicators for Estonia

Total population (millions)a	1.34 (2006)
Urban Population (% of total)a	69.1 (2006)
GDP per capita, PPP (US$)a	18,378 (2006)
Unemployment (%)b	5.9 (2006)
Ethnic composition	**in percentage (2007)b**
Estonians:	68.6
Russians:	25.6
Ukrainians:	2.1
Belarusians:	1.2
Finns	0.8
Tatars	0.2
Latvians	0.2
Poles	0.2
Lithuanians	0.2
Jews	0.1
Germans	0.1
Others	0.7

Sources: a World Bank 2007; b Statistics Estonia 2007.

No efforts were made at this juncture for the purpose of inter-ethnic and social integration because the Soviet system "privileged" the use of Russian in most political

and economic affairs while usage of the Estonian language came to be extremely limited. This resulted in a high degree of social separation which was strengthened in turn due to a high degree of residential and economic separation (Kala 1992).

This led to the ethno-political framework of Estonia to become extremely fractured at its joints. The totalitarian regime had inflicted cruelties on the ethnic Estonian population through mass deportations in 1941 and 1949 and the state of affairs were further exacerbated through "stifling Sovietization" throughout the post-war era. Hence the emergence of consociationalism became extremely difficult.

The Estonian nationalist movement under the leadership of Mikhail Gorbachev and his mantra of perestroika succeeded in getting the declaration of political sovereignty within the Soviet Union passed in the Estonian Supreme Soviet and the language law declaring Estonian the official language was adopted two months later. The movement was further radicalized when the group called the Citizens Committees exhorted the people not to forget that Estonia was an independent state which had been illegally occupied and annexed by the Soviet Union in 1940 and was admitted into the Soviet Union as a result of the request made by the communist government of Estonia which came into power by means of rigging the elections. The Citizens Committee also maintained that the all post-war immigrants of Russian speakers should be treated as an illegal settler population. This assertion meant that only pre-war citizens and their descendents would be eligible for automatic citizenship in case of any sort of restored independence and Soviet-era immigrants could only be naturalized subject to the conditions fixed by the Estonian state (Pettai and Hallik :2002). Estonia leaped to independence in 1991 and looked upon itself as a state restored after illegal Soviet occupation. The Estonian Supreme Soviet adopted a resolution in 1991 declaring that only pre-1940 citizens and their descendants would be eligible for automatic citizenship. The parliament acting in accordance with the restorationist logic in 1992 reinstated Estonia's 1938 Law on citizenship and enacted a set of residency and language requirements for the naturalization of non-citizens. The resultant effect of such measures was that the electorate became extremely ethnically biased as ethnic Estonians constituted 85 per cent of the total population and consequently, not a single Russian party contested the elections and no non-Estonian was elected to the legislature. Estonia thus transformed itself into an

independent ethnic Estonian nation-state from a Soviet republic pondering over the possibilities of bi-nationhood.

(ii) - Disparaging Attitude of the State

The doctrine of legal restoration rendered all possibilities of a policy change pertaining to minorities during the 1990s to be extremely bleak. The declaring of almost a quarter of the population to be "non-citizens" brought to the fore numerous practical challenges and the danger of the situation turning volatile became palpable. The old Soviet passports of many people in Estonia were about to expire or become anomalous and therefore the Estonian authorities in 1993 decided to start the process by which non-citizens would be issued new Estonian residency documents. However, the draft Aliens Act which came into being did not guarantee that non-citizens in good standing would automatically be entitled to a new residence permit. This led to a number of protests in Russian towns of Narva and Sillamae which compelled the local authorities to pull up their socks in both the cities and organize "secessionist referenda" in July 1993. The situation became grimmer because of the continued presence of 25,000 former Soviet personnel in Estonia. Russia pressurized Estonia to give up its restorationist policy by threatening to delay the withdrawal of the Soviet troops from Estonian territory. A compromise was reached eventually through the mediation of the OSCE High Commissioner on National Minorities, Max van der Stoel as well as western diplomats in Tallinn according to which the Estonian parliament amended the law to guarantee residence permits to more or less all Soviet-era residents while the leaders of the Narva and Sillamae referenda agreed to respect the decision of the Supreme Court which held that their polls should be considered to be invalid.

(iii)- State Encouragement for Large Scale Migration of Minorities

The centre-right government of Mart Laar fuelled the feeling of uncertainty among the Russian-speaking population in the hope that they would leave for Russia. The denial of automatic citizenship to nearly 500,000 people owing to the complexities involved in the acquisition of permanent residence permits encouraged the non-citizens to acquire the citizenship of other former Soviet republics or that of the Russian Federation. The non-citizens who took advantage of Russia's simplified

procedure for ex-Soviet citizens to obtain Russian Federation citizenship comprised 13 per cent of the population which was the highest proportion of such applicants from any Soviet republic at that time. About 80,000 people left Estonia with the majority going towards the east between 1990 and 1996. The Migration Foundation founded in 1992 provided the financial backing to the process and released grants of upto 100,000 Estonian kroons for non-Estonians who were leaving for the former Soviet Union (Eesti Migratsioonifond 2006).

The alienation process became more acute through the adoption of another series of laws which proved to be disadvantageous to the Russian-speaking minority. The Estonian parliament adopted a new citizenship law in January 1995 which made the naturalization requirements even more rigid by increasing the required residency period from two to five years and through the introduction of a civics examination to be given in Estonian apart from the Estonian language exam.

(iv) - Imposition of Estonian as the Dominant Language

A new Language Act was adopted the same month by the Estonian parliament which declared Estonian to be the official language and termed all the other foreign languages spoken in Estonia as "foreign languages". It was an attempt to make the ethno-political order even more unequivocal (Jarve 2002). The parliament also put forth a set of Estonian language requirements for electoral candidates at both the national and local level in 1997 and henceforth the candidates had to sign a written statement confirming that their level of Estonian was sufficient to participate in the work of legislation. The law was challenged in the Supreme Court by none other than the President of Estonia but the Court eventually decided that the law was in compliance with the constitutional norms and it was implemented in 1999 during the parliamentary and local elections.

(v) - Increment in Political Participation of Minorities

There were, however, some positive steps taken pertaining to minority policy. The constitution of 1992 ensured all permanent residents the right to vote at the municipal level. This provision was brought into force during the 1993 local elections

which led to a "surprisingly strong showing among Russian parties in the capital Tallinn and in the north-east Ida-Viru County.

Estonia also restored its highly appreciated inter-war policy of cultural autonomy for minorities which was followed by putting in place the Cultural Autonomy Act in 1993 which provided for the creation of minority voter rolls to ensure minority participation in the election of the cultural autonomy boards. The right to use minority language in local governance was granted if half the permanent residents of the locality belonged to an ethnic group. A majority of the thirteen municipalities that qualified for this provision were in Estonia's north-east which was an acknowledgement of the Russian character of the country. Estonia became one of the first countries in Central and Eastern Europe to ratify the Council of Europe's Framework Convention for the Protection of National Minorities in 1997 after which it had to undergo two rounds of monitoring by the Council of Europe's Advisory Committee and it was generally found to be compliant with the convention.

(vii) - <u>Glitches in the Rights Guaranteed to the Minorities</u>

Every single concession doled out to the minorities had certain drawbacks. The municipal voting rights denied the right of permanent residents to stand for local office despite the exhortation of the Council of Europe to include this provision. The utility and the real value of cultural autonomy were considerably minimized on account of the stipulation that only citizens could take part in this institution. The percentage of Estonian citizens among the ethnic Russians, Ukrainians and Belarussians was 40 percent, 29 percent and 23 percent respectively (Eesti Statistikaamet 2002).

The cities of Narva and Sillmae applied four times for the right to use Estonian and Russian "in parallel" between 1995 and 2004. But this request was never entertained by the Estonian government. It stated that this concession of using Russian pertaining to municipal language policy could not be granted because the local governments had not ensured the usage of Estonian in their day-to-day affairs and therefore the permission to use Russian could not be granted (Tomusk 2004).

When Estonia ratified the Framework Convention for the Protection of National Minorities, Estonia adopted a "reservation" according to which only those ethnically distinct people who were citizens of Estonia could be regarded as minorities. This reservation excluded a majority of Estonia's minority population from the protection afforded by the Convention. This move has been severely criticized by both the Council of Europe and the European Commission (European Commission 1997: 18.)

(vii) - <u>Reluctance of the State to Recognize Minorities as a Whole</u>

The ethno-political regime of Estonia could be described as one of "individual civil rights without recognition of minorities". The recognition of minorities as a collective whole was conspicuous by its absence in this regime. Most of the provisions for the local recognition of minorities declared in the constitution proved to be hollow. Some analysts have labelled Estonia as an "ethnic democracy" owing to the fact that the minority were entitled to citizenship in the country (Smith 1996). There are others who have called it an "ethnic control regime" because the Estonian government was ensuring the preservation of ethnic diversity but it was doing so through the undesirable process of political marginalization (Pettai and Hallik, 2000).

Estonia is said to have been in a situation of societal separation in the late 1990s according to some prominent social scientists (Lauristin and Heidments, 2003:15). According to the 2000 census, only 80 per cent of the total population of Estonia, which was 1,370,052, possessed Estonian citizenship. Citizens of the Russian Federation comprised of 6.3 per cent of the population while 12.4 per cent were people who were essentially stateless permanent residents for those who enjoyed "undetermined citizenship" (Eesti Statistikaamet 2002). The naturalization rates registered a sharp decline from 22,773 in 1996 to 3,090 in 2001. The labour market continued to be split along ethnic lines (Hallik 1999). It was a widespread belief of a majority of non-Estonians that the ethnic Estonians had better access to a whole range of societal spheres which included availability of job opportunities, promotions and greater pay (Rose 2000: 35-38).

(viii) - The Formulation of a Full-scale Minority Policy

It was range of factors that contributed towards the formulation of a real minority integration policy. Efforts in this direction are said to have kick-started with the appointment in May 1997 of a Minister without Portfolio for Population Affairs who was entrusted with the task of bringing about ethnic integration. The first minister, Andra Veidmann, formulated an initial set of policy principles by means of which he declared minority integration to be a central political goal of Estonia. A "full-scale policy programme" was approved by the cabinet under a new minister, Katrin Saks in 2000. The policy document defined the desired outcome of integration as

> ...an Estonian model of multicultural society that is characterized by the principles of cultural pluralism, the preservation and development of Estonian cultural space and a strong set of things in common (Minister of Population Affairs 2000:5).

The scheme was criticized by minority representatives on the grounds that it smacked of assimilative tendencies and overemphasized on the learning of the Estonian language. However, the emergence of the policy itself was hailed as a significant change in the field of minority affairs. The very fact that a full-scale programme existed attracted financial assistance from the European Union, the United Nations Development Programme, the Nordic countries and the governments of Netherlands, Canada and the United States.

(ix) - Dealing with the Paradox

The doctrine of legal restoration was the resultant product of political mobilization and discursive construction during 1989-91. It was also based on objective tenets such as the policy of the West of that of non-recognition of the occupation and annexation of the Baltic states in 1940 (Hough 1985). It was this paradox that confronted the "Western community" when the first expert commission visited Estonia for the purpose of assessing allegations of violations of minority rights. The fact-finding missions noted that Estonia was well within the ambit of international law when the argument pertaining to Soviet occupation was acknowledged although they expressed their remorse and regret over the

consequences of Estonia's restorationist policy (European Bank for Reconstruction and Development 1992).

(x) - Effective International Monitoring

The most regular monitoring of minority rights during the first half of the 1990s was conducted by the OSCE and its High Commissioner on National Minorities, Max van der Stoel who first visited Estonia in January 1993 and issued a preliminary set of recommendations in the month of April urging the Estonian government to increase awareness about its laws and employ the use of the Russian language in this exercise. He also suggested that government of Estonia should create a National Commissioner on Ethnic and Language Questions (Van der Stoel, 1993). He tried to set to rest all apprehensions that he was trying to alter Estonia's fundamental policies. He stated that he was simply trying to blunt the edges of laws that might instigate open conflict among the different ethnic groups of Estonia. Some of his recommendations were instantly followed up by the Estonian government but it did not pay much heed to the seven letters that he wrote to the Estonian Minister of Foreign Affairs till 1997. Van der Stoel played a very crucial role during the 1993 Aliens Act crisis during which he went to the north-east of Estonia and talked to all the sides (Zaagman, 1999). The OSCE had also set up a long-term mission for Estonia which kept an eye on the developments in the country on a day-to day basis. The mission had an office in Tallinn as well as in the north-eastern towns of Johvi and Narva and its mandate was continually extended till January 2002 when the mission was closed.

It was only because of the pressure exerted by the European Union that compelled Estonia to take heed of the OSCE's policy suggestions. The OSCE mission played the role of providing a continuous flow of information from Estonia and it was in "tandem with the political muscle of the EU" that desirable changes were made as seen in the case of the granting of automatic citizenship by the Estonian government to children who would have otherwise remained stateless after the European Commission mentioned the issue in 1997 in its Opinion on Estonia's application to join the European Union (European Commission 1997: 19).

(xi) - Use of Financial Instruments by the EU in Estonia

However, the European Commission made it amply clear by including Estonia in its initial "first wave" of EU accession countries that it would not make "Estonia's citizenship and minority policy an issue of fundamental conditionality or demand a major liberalization of Estonia's policies". The European Union preferred to make use of its pre-accession financial instruments as the weapon to influence policy in Estonia. The European Union invested a total of EUR 6.8 million in support of Estonian language and training programme for non-Estonians and in exchange the EU was able to secure a seat on one of the programme's steering committees and it was thus able to continually monitor the "spirit and practice" of the policy.

The European Union had started targeting particularly controversial aspects of Estonia's minority legislation. It criticized the Estonian language requirement for electoral candidates in 1999 as a violation of the UN's International Covenant on Civil and Political Rights which ultimately led to the requirements being done away with in November 2001. The EU also opposed a series of amendments to Estonia's language law which were intended to make the use of Estonian compulsory in private business. The European Union opposed this on the ground that such requirements militated against the EU principles of open labour market and was thus illegal (European Commission 1999: 2000).

(xii) - Assessment of the Effectiveness of the European Union

There are varied opinions regarding the impact of international conditionality on Estonia. There are some scholars who claim that European organizations have been rather lax while others have claimed that Estonia has been subjected to a level of scrutiny which has not been applied to many Western countries (Ozolins, 2003). Judith Kelly has therefore remarked that:

> ...while the OSCE relied mostly on persuasion, and the EU was the master of political conditionality, the Council of Europe straddled the divide using persuasion at times, and conditionality at other times. However, often the organizations worked side-by-side exposing the governments to the interplay of persuasion and conditionality...while the OSCE and the Council of Europe

> often helped facilitate the actual modalities of reaching a compromise on certain minority rights issues, either by dispatching a team of experts or providing behind-the-scenes diplomacy, the political muscle in each case was exerted by the EU and its conditionality in terms of future accession (Kelley, 2003: 36).

The European Union was undoubtedly able to pressurize Estonia to roll back measures that were in clear violation of either the international or EU law. For instance, the European Union had sent a clear signal that "accession was in play" when it stated that Estonia's language policy restrictions could engender "non-compliance by Estonia of the political criteria for membership" (European Commission, 1999:15).

(xiii) - <u>Variables of EU Conditionality</u>

Hughes and Sasse have looked upon the role of the European Union in promoting minority rights as "groping for international benchmarks that do not exist" and have described the alliance of the EU with that of international organizations as an attempt "to shift responsibility from its own monitoring process by internationalizing the benchmarking of the candidate countries with respect to minority protection" (Hughes and Sasse 2003: 17, 19). Pettai and Kallas however, state that the EU had albeit limited but clearly defined goals. They are of the opinion that the Accession Partnership guidelines issued by the European Council have proved to be a much more valid indicator of the EU's political content rather than the monitoring reports which tend to represent a rather late assessment of the prevailing situation. The Accession Partnership agreements were a set of prescriptive goals to be achieved during a period of time in the future. Thus, the Council stated in its first guidelines from March 1998 that Estonia should take measures to facilitate the naturalization process and to better integrate non-citizens including Stateless children and to enhance Estonian language training for non-Estonian speakers" (European Council 1998:28).

These were the only goals that the Council had set concerning Estonia's compliance with the political part of the Copenhagen Criteria. The Council issued a revised set of guidelines in December 1999 as Estonia had adopted new Estonian language requirements for the public and private sector which were unpalatable to the

European Union. Thus, the Council added these concerns to its demands for Estonia as part of the next stage of accession. When the Council issued its final partnership document, Estonia had begun implementing its large-scale integration programme and the language issue had almost totally dissipated.

(xiv) - Steady Progress Made in the Right Direction

The Council called on Estonia to continue the integration of non-citizens by implementing concrete measures, including language training for non-Estonian speakers; to provide necessary financial support for the implementation of these measures and to ensure that the implementation of language legislation is in line with both international standards and the Europe Agreement and that it respects the principles of justified public interest and proportionality (European Council 2002: 31).

The European Union was thus extremely "astute in picking up an endogenous process" that was already taking place in Estonia and the EU clearly expressed its intent of supporting the consummation of the process. The EU assisted vitally in making this process irreversible by making Estonia's "own catchphrase of integration" a part of its first binding political documents.

The European Union created "a kind of undergirding for the policy" which ensured that it became politically sustainable. In addition to this, the huge amount of money pledged by the EU explains as to how the European Union's conditionality played a role in moderating Estonia's ethno-political situation. Thus, Estonia did not become a binational or a multicultural state but the degree of "ethnic control" and "ethnic imbalance" was considerably reduced.

(xv) - Resurgence of Ethnic Clashes

The future of relations between the majority and the minorities seem to be promising three years after Estonia became a member-state of the European Union in 2007. The government was on the verge of completing the initial 2000-07 time span of its integration policy and was busy preparing for a new phase for 2008-2013. There

was a dearth of international financing for a range of integration projects but Estonia set aside a part of the EU structural funds to carry on work in this field. Among ethnic Russians, the number of people who claimed to have a "good" knowledge of Estonian had reached 42 per cent and only 8 per cent among Russians in the 15-29 age group reported of not knowing any Estonian. Estonia's economy continued to boom and socio-economic disparities between Estonians and non-Estonians registered a decline.

Therefore, the riots that erupted in Tallinn on 26-27 April 2007 proved to be a major set-back and it took many people by surprise in view of the recent positive developments towards integration. Prime Minister Andrus Ansip's determination to relocate a Soviet-era memorial known as the Bronze Soldier from a location in downtown Tallinn to a far away cemetery led to the resurfacing of an issue that neither Estonia's integration programme nor any international organisation had dealt with sufficiently. While the Estonians saw the monument as a painful reminder of the Soviet occupation of their country, the Russians viewed it as a symbol of the Soviet Union's victory in the Second World War. Russia also interfered in the crisis in early May 2007 by allowing the pro-Putin Nashi movement to protest before the Estonian embassy in Moscow. However, polls among Russian-speakers showed almost 80 per cent believed that the decision to move the Bronze Soldier was wrong, 70 per cent stated that they still considered themselves to be a part of Estonian society (Rechel 2009:114-115).

(xvi) - <u>Sustained Interest of the EU in the Affairs of Estonia</u>

The crisis prompted intervention by the European Union and the German Chancellor Angela Merkel serving as the EU President, asked Prime Minister Ansip and President Putin to exercise restraint. When the blockade of Estonia's Moscow embassy began to suffer, the European Union stated that the Russian government should take steps to stop all kinds of disruption so as the Russian government had an international obligation to safeguard diplomatic outposts.

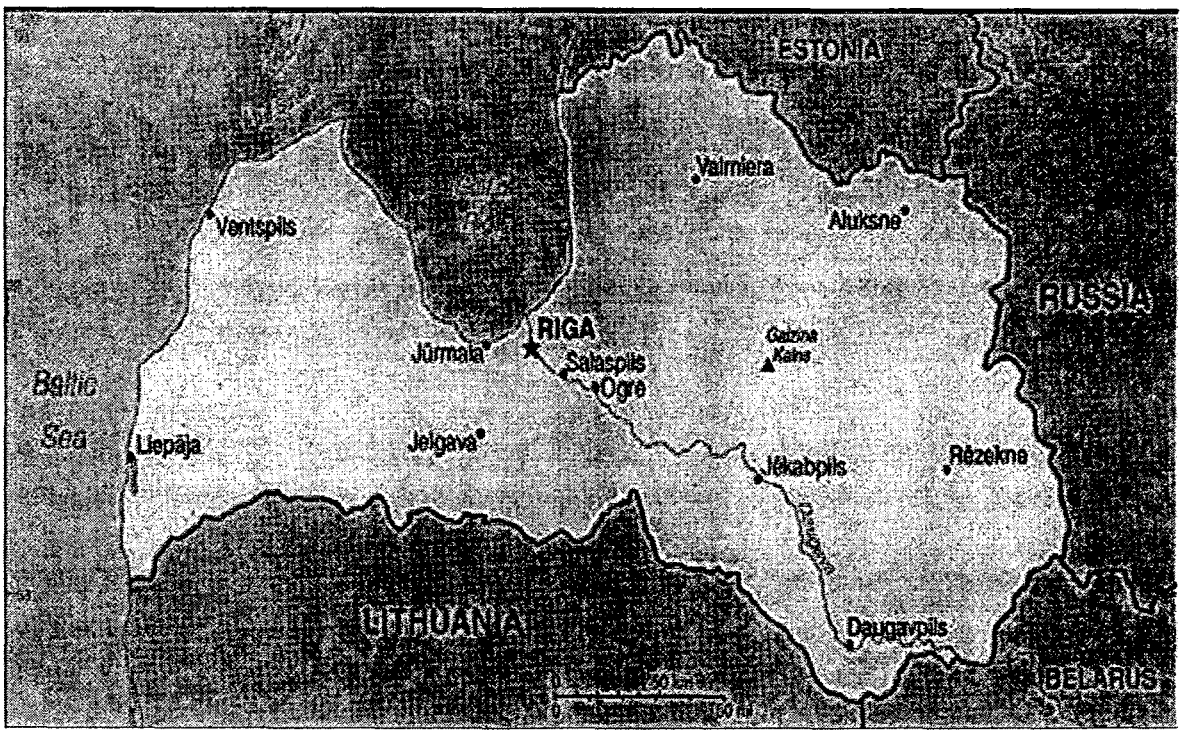
However, the European Union undoubtedly found itself caught in a very difficult situation because it had the unenviable task of defending a member-state which was itself responsible for the crisis. The disturbances showed that minority relations in Estonia continue to be a salient issue and that European Union largely has

nothing more than soft persuasion to offer for resolving such issues unlike the earlier days when it wielded the power of conditionality.

II. Latvia

The remarkable journey of Latvia from being a former Soviet republic to becoming a member-state of the European Union is a reflection of its resolve to overcome the forces of authoritarianism, Sovietisation and Russification" and make space for the desirable trends of democratization, marketisation and westernization. One of the most significant issues that Latvia has had to grapple with in the course of becoming a part of the EU has been that of the large Slavic minorities many of whose members belonged to the erstwhile Soviet empire.

Map 2: Latvia



Source: http://maps.mygeo.info/maps_eu_lv.html.

Minorities have been living in Latvia for centuries. They include the proto-Russians living in the south-east, Russian old believers from the seventeenth and eighteenth centuries, the Baltic Germans who have lived here since the days of the

Hanseatic League and the Finno-Ugric Livs who stay along the Baltic Sea coast (Kolsto 1995). The Russian-speaking community constituted about 11 per cent of the population prior to the Second World War and the Soviet annexation of Latvia in 1944 (Smith 1996: 7).

Table2: Key Indicators for Latvia

Total population (millions)a	2.3 (2006)
Urban population (% of total)a	67.9 (2006)
GDP per capita, PPP (US$)a	15,878 (2006)
Unemployment rate (%)b	10.4 (2004)
Ethnic composition	**in percentage (2007)c**
Latvians	59.0
Russians	28.
Belarusians	3.7
Ukrainians	2.5
Poles	2.4
Lithuanians	1.4
Jews	0.5
Roma	0.4
Others	1.8

Sources: a World Bank 2007; b UNICEF 2007; c Latvian Statistical Bureau 2007a.

Latvia was forced into becoming a part of the Soviet Union and consequently the Soviet authorities made use of mass migration of Slavs into Latvia for the purpose of ensuring stabilization, encouraging industrialization and bringing about Russification. The percentage of Russian speakers had more than tripled to 40 per

cent by the end of the Soviet period which meant that Latvia had become home to more Slavs than Estonia and Lithuania. Latvia had a Russian military presence as well as a Slavic community which intended to make Latvia their home on the eve of independence. However, more that 28,000 military personnel had left Latvia by August 1994 due to the considerable international pressure (Galbreath 2005 :195-196). According to the Latvian Statistical Bureau, Russians constituted 28.3 per cent of the population in 2007 while the Belarusians, Ukrainians, Poles and Lithuanians formed smaller communities in Latvia. Daugavpils, Rezekne and Riga are the cities which have the largest share of ethnic Russians. Riga and Latgale have the highest ratio of Russians among the country's regions. A rural Russian community has been inhabiting the Latgale region for hundreds of years while the Russians live in urban areas in the rest of the country. Thus, there was a large proportion of Russians and Russian-speakers as most Ukrainians and Belarusians used Russian as a native language in Latvia. This made the post-Soviet governments keen to strengthen the state's independence as well as overcome the consequences of Soviet policies of Russification.

Table 3: Percentage of Russians in Latvia's Cities and Regions in 2007

Cities	**%**	**Regions**	**%**
Daugavpils	53.3	Latgale	39.6
Rezekne	48.5	Pieriga	20.1
Riga	42.1	Zemgale	18.9
Jurmala	35.9	Kurzeme	15.7
Liepaja	32.9	Vidzeme	10.2
Ventspils	29.8		
Jelgava	29.6		

Source: Latvian Statistical Bureau 2007b.

(i)- The Deepening of the Majority-minority Divide

The Latvian politicians therefore introduced a restorationist policy of nation-building as they were apprehensive of post-Soviet Russian imperial ambitions and they also feared becoming a minority within their own state. The restorationist logic was based on the claim that Latvia had been illegally occupied by the Soviet Union and that it still existed despite having lost its sovereignty for nearly 60 years. The restorationist logic hugely impacted Latvian politics and political institutions since it had led to the reinstalling of the 1922 constitution and pre-war citizenship. All residents who had hereditary links with Latvian citizens before the Second World War automatically received citizenship while the other residents were required to pass a language and civic history examination before becoming citizens. There was a great overlap between the ethnicity and the citizenship criteria in the early stages of independence. This divide became even more pronounced on account of the new language policy which declared Latvian as the only state language and Russian was reduced to the status of a minority language in the country. The state introduced a policy of promoting bilingualism among Russian-speakers which was also implemented in the case of the minority school curriculum. The Latvian parliament passed an education law in 1998 according to which Latvian became the primary language of instruction in all state-funded secondary schools. This law was amended in 2003 and since then "minority language schools follow a 60:40 proportional split between Latvian and the minority language" (Hogan Brun 2006).

(ii) - Impact of Western Conditionality

The international community proved to be "an active participant" in influencing Latvian minority policy throughout the 1990s and the early 2000s focusing largely "on legislation and policy pertaining to citizenship and language" This involvement took the form of official visits, monitoring reports, evaluations of draft legislation and recommendations by officials from the United Nations, the OSCE, the Council of Europe, the Council of the Baltic Sea States and the European Union.

(iii) - Effective Use of the Weapon of Conditionality

The international interest and involvement began soon after the restoration of independence in 1991 and continued till Latvia's accession to the European Union

and the North Atlantic Treaty Organisation in 2004 after which there was a rapid decline in its intensity and impact. The OSCE and the Council of Europe played a prominent role in the early to mid 1990s while the EU took the mantle from them in the latter part of the 1990s till accession. The Council of Europe was considered to be a necessary intermediate station on the road to membership of the EU while the OSCE High Commissioner on National Minorities served as the "gate keeper" to membership in the case of Latvia and many other accession countries (Kemp 2001:7). The European Union more often than not "frequently echoed and publicly supported" the recommendations of the HCNM. The representatives of the three organizations worked in coordination as part of joint expert groups and issued joint public statements (Kubicek 2003).

Conditionality became the most "critical part" of this international involvement and operated through the threat of non-membership in the Council of Europe and subsequently in the European Union. International involvement was also seen in the form of providing language training and social integration programmes as provided by the United Nations Development Programme (UNDP) (Simane and Muizieks 2005: 64-72). The representatives of international and regional organizations frequently engaged in direct lobbying, provided advice on draft legislation and attempted to persuade Latvian officials to liberalise minority policy. The threat of non-membership proved to be instrumental in convincing the Latvian president to veto the initial version of a Law on Citizenship in 1994 which did not take into account the opinion of the OSCE and the Council of Europe experts. Thereafter, the desire to join the Council of Europe proved to be critical in convincing the Latvian lawmakers to adopt a revised law (Kubicek 35-36). However, the lawmakers were also known to have ignored a number of recommendations made by the OSCE (HCNM) by opting for a more drawn-out naturalization schedule than suggested and by not granting citizenship automatically to all children born in Latvia. The outcome however, represented a "normative compromise" (Dorodnova 2003: 34). International organizations renewed pressure on Latvia to liberalise the Law on Citzenship. The publication of the European Commission's Opinion on Latvia in July 1997 included a number of recommendations to facilitate naturalization. While the Opinion did not state in specific terms that the law should be amended, the EU officials, the representatives of influential member-states and the OSCE exerted

intense pressure to amend the law and threatened Latvia both directly and indirectly with non-admission to the EU. (Kubicek 2003: 39-42). The electorate approved of the liberalizing changes by a vote of 53 per cent in favour and 45 per cent against the changes.

The international community made use of conditionality yet again when Latvian parliamentarians sought to adopt a new law which provided for the extensive regulation of Latvian language use in both the public and private sector in 1999. The representatives of the OSCE, the Council of Europe and the European Commission coordinated their efforts for persuading Latvia to pay heed to human rights norms as well as EU standards and lift the restrictions on the use of minority languages. This persuasion was followed up with the use of the threat of non-membership in the EU which was supported by many foreign dignitaries and supported by the president of Latvia (Kubicek 2003: 46). It was only after continued pressures and threats that the parliament adopted an amended law in December 1999 which was deemed by the HCNM to be "essentially in conformity with Latvia's international obligations and commitments" (OSCE HCNM 1999).

Dorodnova has rightly concluded that "political arguments linked to EU accession negotiations proved more effective than the reference to international human rights norms" (Dorodonova 2003: 127). There is indeed a widespread agreement among scholars that the role of conditionality has been quite significant in influencing Latvian minority policy. Morris has stated that "Latvia's desire to join the EU has been crucial in the reform of citizenship legislation". Elsuwege has similarly stated that:

> ...the EU pre-accession conditionality has together with the efforts of other international organizations such as the UN, the Council of Europe, NATO and the OSCE- resulted in a number of amendments to laws on education, language and the status of non-citizens, efforts which can be praised as largely eliminating the possibility of ethnic violence (Elsuwege 2004: 54-55).

Muiznieks and Brands Kehris agree that conditionality related to EU membership was clearly essential in convincing Latvian politicians that concessions had to be made" (Kubicek 2003:50). Gelazis believes that conditionality in Estonia and Latvia has proved to be a great success. However Hughes seems to have another point of view:

> ...it is difficult to reconcile claims of successful international intervention with an outcome which has left some 700,000 persons stateless and without fundamental political and economic rights (Hughes 2005: 752).

Although Dorodnova considers the impact of the HCNM on Latvian minority policy very significant in terms of operational, normative and substantive effectiveness, she considers the situation of Russian-speakers to be " rather unsatisfactory" (Dorodnova 2003: 149-150). Muiznieks and Brand Kehris finally pointed out that "sensitive legislation was liberalized in conformity with European standards" which was by no means an ordinary trend (Kubicek 2003:50).

(iv) - <u>Encouragement for Social Integration</u>

It is largely felt that the status of the minorities in Latvia has remained almost unchanged since the country became an EU member in May 2004. The relationship between the state and the minorities has not undergone any major overhauling but there has not been an unrest of the kind witnessed in Estonia in April 2007. Latvia has been a witness to largely peaceful social protests over the education reforms described earlier that came into force in September 2004. Although, Latvia undoubtedly faces "considerable challenges" with respect to its large Russian-speaking community, social integration in Latvia is a long-term objective which has been strengthened by EU membership. Most people who are part of the minority population in Latvia are "relative newcomers" who have arrived in the early Soviet period in pursuance of the policy of colonization and industrialization. Thus, the situation in Latvia can be better compared with that of France, Germany and the United Kingdom that have "recent immigrant populations" rather than with its "counterparts" in Central and Eastern Europe. This "different situation of Latvia" has had a large impact on minority policy. Successive governments have encouraged social integration which can be referred to as a "half-way point between policies of assimilation and policies of autonomy. This was the approach that was applied in the different issue areas (Rechel 2009: 141).

(v) - <u>The Crests and Troughs in the Rate of Naturalization</u>

Latvia permitted all those who were willing to appear for the naturalization exams in conformity with the mandate of the referendum held in 1998. The Latvian

government simultaneously established a social integration project which encouraged the "acquisition of Latvian as a second language among minorities and naturalization among those who arrived after the Second World War. The Naturalization Board had received naturalization applications concerning 138,074 persons out of which 127,786 individuals including 13,572 underaged children have been granted Latvian citizenship till December 2007 which was twelve years after the Latvian state began accepting citizenship applications.

The number of new citizens per year has increased drastically after changes were made in the citizenship law in 1998 which coincided with the moment when Latvia was named a forthcoming EU member-state. The rate of naturalization sharply increased in 2000 as part of the drive by non-citizens to acquire EU citizenship. Naturalisation numbers were lower between 2001 and 2004 and it rose again after Latvia became part of the EU and it declined sharply in 2007.

It is thus apparent that EU membership proved to be an incentive to apply for citizenship. The enlargement provided the Latvian citizens with the opportunity to work abroad in states such as Ireland, Sweden and the United Kingdom that had opened their labour markets to the new member-states of the European Union. The non-citizens were denied the automatic right to work abroad. The constraints on the mobility of non-citizens suited the Latvian state and it was amenable to the logic of the social integration project. The attraction of labour mobility led the non-citizens to opt for naturalization and they were required to learn the Latvian language sufficiently in order to pass the language part of the naturalization examination.

There were only 6,826 naturalizations in 2007 because the people who were interested in the process did so either shortly before or after the enlargement. Moreover, the labour markets of many EU member-states have been opened to Latvia's non-citizens which has led to the elimination of a powerful incentive for undergoing the process of naturalization. This has led to a large number of non-citizens who may never wish to naturalize. One of the most prominent disincentives for many young non-citizen males to naturalise was the requirement to do obligatory military service. However, Latvia opted for a professional military in 2006 which could lead many such non-citizens to reconsider their decision. Non-citizen have largely remained passive and alienated which requires the need for caution in the

predictions about future behaviour. About 362,902 ethnic Russians were citizens of Latvia, 278,213 were non-citizens and 22,115 were citizens of Russia (Naturalization Board of the Republic of Latvia 2008).

(vi) - Reaction of the Minorities to Education Reform

The Latvian parliament passed a new education law in 1998 which called for a shift to a primarily Latvian language curriculum in all state-funded schools. The stage was set in Latvia's schools for the battle of social and linguistic integration in the case of the next generation Russian speakers. This was the most crucial phase during which the state thought that it would be able to achieve maximum social integration. The response of the minority community was rather slow. Organised opposition to the law occurred only after the October 2002 parliamentary elections although the education law was adopted in 1998. The result of the protests was that the now defunct People's Harmony Party, Equal Rights and the Latvian Socialist Party which were the three left-wing minority parties succeeded in securing the second highest share of votes. Opposition to the law became intense in 2003 and 2004 and it was marked by weekend protests in parks in the city centre of Riga as well as outside the Ministry for Education and Science with banners saying "SOS: Save our Schools" and "Latvian- Russian and not Russian-Latvian". The protesters however, did not demand that the teaching of Latvian in minority schools should be stopped. The protesters organized a number of rallies, sit-ins, walkouts and other protest methods when the reforms were implemented at the beginning of the new school year. However, the opposition lost its tenacity and intensity as the school year progressed and then disappeared completely.

(vii) - Non-discrimination in Latvian Society

It has been alleged by many Russian activists in Latvia, the government of the Russian Federation and some Western observers that the Latvian government has discriminated against minorities. The verdict of the sociological surveys conducted throughout the 1990s was that the Russian-speakers expected to be treated in the same manner as ethnic Latvians by the employers, service providers and the police and in the spheres of health, housing and social security (Rose 1995: 39-40). A survey commissioned by the National Human Rights Office (NHRO) in 2006 found out that

13 per cent of non-Latvians answered in the affirmative as compared to 9 per cent of Latvians when asked as to whether they had experienced human rights violations or discriminations over the previous three years. This was regarded as a considerable improvement from a previous survey in 2000 when the corresponding figures were 31 per cent for non-Latvians and 18 per cent for Latvians (Baltic Institute for Social Science: 2006).

Very few persons have approached the court or filed discrimination complaints in the NHRO. The NHRO received five written complaints on racial or ethnic discrimination, one on linguistic discrimination and gave 16 oral consultations (NHRO 2006: 62). The court awarded compensation to a Roma woman who was denied employment on account of her ethnicity in the first case of ethnic discrimination in 2006 (European Union Agency for Fundamental Rights 2007: 28). The most common victims of harassment have been the Roma and the visually different minorities such as Blacks and Asians (Lukumiete 2005:13). The differences between citizens and non-citizens have not evoked much criticism when compared to the restrictions in private sector employment. Only citizens have been able to practice as attorneys, notaries, notary assistants, heads of detective agencies and security guard managers (Mitrofanovs *et al.* 2006: 79-83). The government has justified the restrictions on the ground that attorneys and notaries are "inextricably" tied to the judiciary while managing detectives and security guards might endanger public safety. However, the United Nations Human Rights Committee and the Parliamentary Assembly of the Council of Europe have expressed their concern and have asked Latvia to undertake a review of these requirements (Human Rights Committee 2003).

The language policy of Latvia has also come under the scanner. When Ingrida Podkolzina, a plaintiff from Latvia questioned the language requirement for standing for public office before the European Court of Human Rights in 2002, the Court stated that "requirements of that kind pursued a legitimate aim despite the fact that the procedural rights of the plaintiff had been violated (European Court of Human Rights 2002). The Latvian authorities however, did away with the language requirements on account of the compulsions linked to Latvia's bid to join the EU and NATO. This was followed by the ruling of Latvia's Constitutional Court that certain language restrictions were discriminatory. The first case that came up for hearing before the

Court in this context was in 2003 and it was concerned with a law which restricted the use of languages other than Latvian in private radio and TV broadcasting. The second case took place in 2005 and it was concerned with a law that allowed the state to subsidize only those private schools that employed Latvian as the medium of instruction. Thus Latvian language policy shall continue to be questioned in the private and public sector. However, the most immediate legal difficulties are connected with the European Commission infringement procedures against Latvia for incomplete transposition of the Race Equality Directive. The European Union Agency for Fundamental Rights thus noted, "Malta and Latvia have been very slow in adopting the necessary legislation in compliance with the directive" (European Union Agency for Fundamental Rights 2007: 20).

(viii)- <u>Impact of the Framework Convention</u>

Latvia finally ratified the Council of Europe's Framework Convention for the Protection of National Minorities (FCNM) mainly due to a different domestic constellation and the realization that the convention leaves the states a large measure of discretion. Latvia defined national minorities as:

> ... citizens of Latvia who differ from Latvians in terms of their culture, religion or language, who have traditionally lived in Latvia for generations and consider themselves to belong to the State and society of Latvia, who wish to preserve and develop their culture, religion or language. Persons who are not citizens of Latvia or another State but who permanently and legally reside in the Republic of Latvia, who do not belong to a national minority within the meaning of the Framework Convention for the Protection of National Minorities as defined in this declaration, but who identify themselves with a national minority that meets the definition contained in this declaration, shall enjoy the rights prescribed in the Framework Convention, unless specific exceptions are prescribed by law (Council of Europe 2007).

This definition denies the non-citizens the symbolic gratification of recognition as minorities but it does extend the protection of the FCNM to them. No laws or regulations have been modified to implement the FCNM. However, several subtle changes have taken place as a result of ratification. For instance, there has been a considerable increase in the allocation of additional government funds for the national minority NGOs.

However, there are several obstacles that need to be overcome. Minority policy remains controversial and there happens to be no consensus among the political elite on significant minority issues. There have been frequent changes in the governing coalition which has led to inconsistency of policy and implementation. A secretariat is the same as a Ministry and Special Assignments Ministers are "full cabinet ministers". The secretariats are "ostensibly set up to address specific issues within a limited period of time and therefore the long-term fate of the office remains therefore uncertain.

(ix) - Numerous Unresolved Minority Issues

The impact of external influence on Latvian minority policy after accession to the European Union has waned considerably and political mechanisms have given way to legal battles over minority rights. The issues that remain unresolved are the "needs of a large non-citizen population, the transposition of the EU Race Equality Directive and the legal challenges to various restrictions on minority languages". The European Court of Human Rights and the Latvian Constitutional Court have given unfavourable rulings in the cases that impinge on minority rights primarily on issues dealing with language use. Despite the existence of numerous challenges, minority policy in Latvia has become increasingly "institutionalized" and funding for the preservation and development of minorities and their language and culture has increased.

III. Lithuania

Lithuania is considered to be one of the more ethnically homogeneous post-Soviet states. About 6.74 per cent of Lithuania's residents identified themselves as Polish, 6.31 per cent as Russian, 1.23 per cent as Belarusian, 1.2 per cent as Jewish and .07 per cent as Roma according to the 2001 census (Department of Statistics 2001:14). The ethnic self-identifications in the census generally correspond with the language spoken at home.

Map 3: Lithuania

Source: http://maps.mygeo.info/maps_eu_it.html

Lithuania is known to have a single unipolar ethnic structure with the Lithuanian community being the majority. However, this does not apply to south-eastern Lithuania which has a huge number of ethnic Poles and ethnic Russians and therefore the issue of minority rights and ethnic relations is extremely significant in this part of the country. About half of the population in south-east Lithuania comprises of the Lithuanian community and one third is Polish. The region of Salcininkai has 79 per cent Poles, 10.4 per cent Lithuanians and 5 per cent Russians as part of its population. Vilnius comprises of 61.3 per cent Poles, 22.4 per cent Lithuanians and 8.4 per cent Russians. The Lithuanian community exists as a minority in the town of Visaginas because there was an influx of labour migrants from all over the Soviet Union in the 1970s for the construction of a nuclear power plant (Department of Statistics 2001).

Table 4: Key Indicators for Lithuania

Total population (millions)a	3.4 (2006)
Urban population (% of total)a	66.6 (2006)
GDP per capita, PPP (US$)a	16,221 (2006)
Unemployment rate (%)b	8.3 (2005)
Ethnic composition	**in percentage (2001 census)c**
Lithuanian	83.4
Polish	6.7
Russian	6.3
Belarusian	1.2
Jewish	1.2

Sources: a World Bank 2007; b UNICEF 2007; c Department of Statistics 2001.

(i) - Lithuanisation During the Soviet Period

Most Lithuanians consider their native language to be endangered in the wake of their troubled history. Thus Timothy Snyder points out that:

> the Lithuanian language has not been considered a language of politics for centuries...During the nineteenth century, in some peasant families (traditionally considered the 'core' of the Lithuanian nation), grandparents spoke Lithuanian, parents Belarusian, and children Polish (Snyder 2003: 32).

Hence, when the Polish and Russian-speaking Lithuanian elites started building their nation from nineteenth century onwards, they took upon themselves the task of "strengthening" the Lithuanian language and "defend" it from the influence of Polish and Russian languages. This perceived need to strengthen and defend the Lithuanian language and ethnic identity remains an important variable in ethnic relations. This

included the Soviet Lithuanian elites as well who considered it their duty to "Lithuanize" south-eastern Lithuania. Thus, Communist party leaders such as Mecislovas Gedvilas and Justas Paleckis suggested in 1950 that Lithuanian should be taught instead of Polish in addition to Russian in the area as they believed that the ethnic Poles in eastern Lithania were in fact "Polonised" Lithuanians and Belarusians. However, such attempts at "Lithuanization" did not find favour with Moscow and Lithuania's Poles were able to preserve their right to speak and learn their language during the Soviet period (Kalnius 1998:47). It is this part of history which has contributed to the Polish minority being currently Lithuania's most politically active and vocal minority interested in preserving its cultural rights.

(ii)- Inadequate Minority Rights Regime

The Polish minority rose in opposition to the 1989 Language Law which declared Lithuanian to be the only state language. The government tried to appease the politically active members of the Polish minority in south-eastern Lithuania in the late 1980s and early 1990s by extending cultural autonomy. It is widely believed that the Polish minority of Lithuania has contributed significantly towards strengthening the emerging minority rights regime in post-Soviet Lithuania. The current minority regime offers limited cultural rights for traditional minorities which includes government support for education of ethnic minorities and language rights. But it does not have the teeth to address the gnawing problems of racism and intolerance towards the new minorities such as the Chechens. The western intergovernmental organizations especially the EU have highlighted the need to reframe the minority rights regime for ensuring the proper redressal of the problems experienced by Lithuania's Roma and Jews such as that of anti-Semitism and ethnic discrimination.

(iii) - International Influence on Minority Rights in Lithuania

Scholars have questioned the degree of influence of EU norms and rules on minority rights regimes both during the process of accession and after it. Merje Kuus has therefore described the "ritual of listening to the foreigners" during the process of Estonia's EU accession. She has stated that "the importance of local actors especially their power to interpret or ignore norms should never be underestimated". She has suggested through her case studies that local actors and not international interventions played a critical role in influencing the development of minority rights regimes in

Central and Eastern Europe (Kuus 2004). Grabbe has however acknowledged the role played by the EU in influencing minority issues and stated the following:

> ...the burgeoning literature on "Europeanisation" has identified several mechanisms of EU influence during the accession process, including "legislative and institutional templates" (incorporation of EU laws and norms), financial aid and assistance, monitoring and advice on how to incorporate norms and laws (Grabbe 2002).

The local elites of Lithuania however, do not seem to mention the influence of international actors in the course of analyzing the development of the framework of minority rights in their country. They generally focus on the "historical roots of the post-colonial mentality which makes ethnic and racial tolerance difficult" (Donskis 2005). A study was conducted by leading Lithuanian scholars in 2007 in which it was stated that:

> a civic understanding of the Lithuanian "nation" was lacking, making it difficult to establish a culture of tolerance, which could support anti-discrimination measures recommended by the EU...attempts at preserving an "archaic" ethnic identity, which is still perceived as being threatened, created a "passive political culture" and impeded the development of a robust political community (Adomenas et. al. 2007: 429).

These observations put a question mark on the capability of a post-Soviet society to be able to create a culture which would endorse progressive legislation for ensuring the protection of minority rights.

(iv) - <u>Appreciation of Lithuania's Legal Framework</u>

Lithuanian politicians made it a point to convince the international community that the country had committed itself to the ideals of democracy and peaceful coexistence. The Lithuanian elites decided to put legislation supporting minority rights in place as it was supported by international actors and was a necessary condition for eventual membership of the EU and NATO.

The most important pieces of legislation adopted during this period include the following:

> ... the 1989 Law on Ethnic Minorities that recognized the rights of minorities to cherish and foster their cultural traditions, history and language; the 1989 Law on Citizenship that extended the citizenship of Lithuania to those residing in Lithuania in 1990; and the 1991 Law on Education that granted access to minority language education and schools for Russian and Polish minority

> groups. The constitution of Lithuania adopted in 1992 guarantees cultural minority rights and prohibits discrimination based on ethnicity. It allows Lithuania's ethnic minorities to foster their language, culture and customs and grants minorities the right to administer independently from the state of affairs of their ethnic culture, education, organization and charities (Rechel 2009:154).

These legal provisions ensure that the state supports the rights of ethnic minorities and that the ethnic minorities are loyal to their host state. Lithuania's legal framework for protecting minority rights has received a positive feedback from international actors such as the European Commission in the late 1990s, the UN Human Rights Committee overseeing the implementation of the International Covenant on Civil and Political Rights and the Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities. Despite the fact that Lithuania was not invited to start accession negotiations with the European Union in 1997, the Commission Opinion commented that the situation of minorities in the country was "satisfactory" and referred to the 1991 Law on Citizenship as a "major contribution" because it granted "citizenship to all the persons resident" in Lithuania. The Opinion further noted that:

> ...Lithuania's minorities had the right to manage their cultural and educational affairs, and that 14.6 per cent of schoolchildren attended state-sponsored schools in which all subjects were taught in minority languages. The Opinion also noted that Lithuania's minorities had the right to use their languages for official communication in the area where they were in the majority (European Commission 1997).

Thus the Opinion approved of the minority rights model adopted by the Lithuanian government. The monitoring reports of the country in the following years before the country acquired membership of the EU in 2004, also confirmed that Lithuania's ethnic communities had "well-established rights".

(v) - <u>Lack of Political Leadership</u>

Two trends have been shaping Lithuania's minority rights regime since the early 1990s. On the one hand the Lithuanian government put in place "minority friendly" laws and programmes which included the transposing of EU anti-discrimination directives in order to gain approval of the international community while on the other hand, the government passed several important laws such as the language law and the dual citizenship law for strengthening the Lithuanian "ethnic core". A closer analysis

of the debate surrounding the revised Law on Citizenship of 2002 and the undecided fate of the 1989 Law on Ethnic Minorities illustrate this point.

The new Law on Citizenship adopted in 2002 made a distinction between ethnic Lithuanians and non-Lithuanians. This law came to be debated intensely on account of its discriminatory character. The law did not allow ethnic Jews, Poles, Russians, Belarusians and the members of other minorities to retain their Lithuanian citizenship if they decided to become the citizens of other states.

International actors expressed their disapproval of the law. The European Commission against Racism and Intolerance recommended that the Lithuanian authorities should ensure that the provisions regulating Lithuanian citizenship should not discriminate on the grounds of race, colour, language, religion and ethnic origin. (ECRI 2006:8). The Constitutional Court of Lithuania ruled that the 2002 Law on Citizenship was unconstitutional because any provision on amendment of double citizenship could not be adopted unless the constitution was changed by popular referendum (Marcinkevicius 2007). However, the proposal to organize a referendum on dual citizenship was denounced by political parties across the spectrum as a threat to Lithuania's sovereignty. The viewpoint of the leading political parties in the debate on the Citizenship Law clearly shows that the preservation of the ethnic Lithuanian nation is considered a national interest by the left wing as well as the right wing parties regardless of the principle of non-discrimination proclaimed in the Lithuanian constitution.

The Law on Ethnic Minorities of 1989 allows the ethnic minorities to "develop their culture freely", to expect financial support from the government for their cultural and educational activities including teaching the official language in minority schools. The attempt to make amendments to the law was initiated in 1997 and 2002. Thus, in the second half of the 1990s it was debated as to what constitutes an "ethnic minority" and whose rights should be protected by the Lithuanian state. The resultant product of this debate was a new definition of ethnic minorities. However, these revisions were not accepted by the ethnic minorities because they felt that the government was not genuinely interested in protecting the interests of ethnic minorities.

Another attempt to amend the law was made in 2002 by forming a working group. The Department of National Minorities and Lithuanians Living Abroad came up with a new draft of the Law on Ethnic Minorities which gave individuals the freedom to decide as to whether or not they wanted to be treated as members of ethnic minorities. However, minority representatives protested that they had not been consulted in the preparation of the bill. Thus, no agreement could be reached on the final draft of the bill between the politicians and the administrators till the end of 2007.

The political parities of Lithuania have not exhibited the political will to expedite the process while the minority representatives have failed to communicate effectively with the government representatives charged with protecting their rights. International organizations and local non-governmental organizations (NGOs) have noted the absence of politically strong institutions that have the ability to formulate and implement minority rights policies in Lithuania.

(vi) - <u>Worsening of the Minority Situation</u>

The Department of National Minorities and Lithuanians Living Abroad is a government agency which was created in 1999 to support minority rights and the integration of minorities. It focused on the cultural activities of the ethnic minorities. The Department had been proactive in the past in shaping Lithuania's minority rights regime. It put forward a minority policy which included provisions of relevant international documents such as the European Charter on Regional or Minority Languages and the UNESCO Convention against Discrimination. However, the Lithuanian parliament did not pay adequate attention to it and therefore the Department reverted to its role of engaging with cultural issues. It organizes Lithuanian language learning courses apart from extending support for the cultural programmes pursued by the ethnic minority groups. The number of individuals attending Lithuanian language courses and the number of cultural activities supported by the Department are used as the barometer to measure the "integration" of ethnic minorities into Lithuanian society (Rechel 2009:156).

The very nature of the activities pursued by the Department of National Minorities and Lithuanians Living Abroad points to a major defect in the minority rights regime of Lithuania. The extension of limited cultural rights for traditional

minorities shall lead to the redrawing and re-inforcing of the boundaries between the ethnic majority and the ethnic minorities. The discussion of minority rights solely in terms of preserving the culture and languages practiced by a small number of ethnic groups can be of little help in addressing the problems of ethnic intolerance and discrimination. Both the issues have become more and more important in Lithuanian society and politics.

(vii) - Ethnic Intolerance in Lithuania

Annual public surveys conducted by human rights monitoring agencies suggest that Lithuanian society has become increasingly intolerant towards ethnic groups. The percentage of residents of Lithuania with anti-Roma attitudes increased from 59 per cent in 1990 to 75.4 per cent in 2006. Anti-Semitic attitudes showed an increase from 18 per cent in 1990 to 25 per cent in 2006 while anti-Muslim attitudes registered an increase from 34 per cent in 1990 to 58.2 per cent in 2006. About 68.7 per cent of the respondents asserted that they were not willing share a neighbourhood with Roma while 59.6 per cent of the respondents were unwilling to live in the same neighbourhood with Muslims (Ethnic Research Centre 2007:2). The latter finding is important in view of the fact that according to the 2001 census only 0.08 per cent of Lithuania's residents had identified themselves as Muslims most of whom are Lithuanian Tatars and have been long-term residents of the country. The rise in anti-Muslim sentiment can be attributed to the negative portrayal of Islam and of Muslims in the mass media after the September 11 terrorist attack on the United States.

Table 5: Ethnic Groups Towards Which Respondents Expressed the Most Negative Attitudes in Opinion Surveys (%)

	1990a	*1999a*	*2005a*	*2006b*
Roma	59	62	77	75.4
Muslims	34	31	51	58.2
Jews	18	21	31	25

Sources: a Leoncikas 2005: 7–21; b Ethnic Research Centre 2007.

There also exists a strong prejudice against the Roma who are more often than not associated with the notion of criminality. The mass media and the government officials have contributed in a significant manner in perpetuating this stereotype of the Roma. The municipality ordered the demolition of illegally built houses inhabited by the Roma residents in the Roma settlement of Kirtimai. This act of the municipality was condemned by the Equal Opportunities Ombudsperson which is an institution established in 1999 for the protection of human rights, the Ombudsman of the parliament and the European Commission against Racism and Intolerance. In the context of a complaint filed by an individual whose house was destroyed, the court of Vilnius district acknowledged that the victim "had experienced harm from the local government". However, the government officials responsible for the destruction of the Roma houses were not sanctioned even after the completion of three years since the occurrence of the incident.

(viii) - <u>Law on Equal Opportunities</u>

The government action against discrimination was prompted by the anti-discrmination directives issued by the EU. The Lithuanian authorities adopted the Law on Equal Opportunities in 2005 and expanded the mandate of the Ombudsperson for Equal Opportunities to cover all grounds of discrimination. In 2006, about 20 complaints were submitted to the Ombudsperson for Equal Opportunities. However, these complaints did not receive much attention from the authorities or the public. The European Union Agency for Fundamental Rights chided Lithuania for failing to adopt adequate measures in the fight against ethnic discrimination. It is of the opinion that despite the creation of conduits for victims of ethnic and racial discrimination to express their complaints, these complaints were hardly followed up by imposing sanction on the aggressor or assurance of compensation to the victims. The government institutions seemed to rely more on ineffective recommendations or moral pressure rather than making use of punitive measures (ELTA Lithuanian News Agency 2007).

The Lithuanian human right experts have criticized the law enforcement officers for their incompetence in dealing with cases related to anti-Semitism and racism. Such cases are invariably classified by the government authorities as

"hooliganism" or "vandalism" and generally do not lead to persecutions despite the fact that Lithuania's criminal code prohibits incitements to hatred and violence against members of ethnic, religious or sexual minorities. The UN Committee on the Elimination of Racial Discrimination and the European Commission against Racism and Intolerance made recommendations related to racial discrimination which prompted the Prosecutor General to send a letter to public prosecutors urging them to initiate proceedings even in the absence of formal complaints from victims of racial hatred. This explains the rise in the number of cases of racial discrimination from two cases in 2005 to twenty in 2006 (Human Rights Monitoring Institute 2006).

The Adoption of the Law on Equal Opportunities was followed by the "National Anti-discrimination Programme 2006-2008 which attempts to promote democracy based on ethnic diversity and non-discrimination. The programme was Lithuania's response to a call by the European Commission for national programmes promoting equal opportunities. The programme is created and managed by the Lithuanian Ministry of Social Security and Labour which believed that there was a pressing need for "research, analysis and education for tolerance" (Lithuanian Ministry for Social Security and Labour 2007).

The initiative however, does not go beyond an "evaluation" of the state of affairs. It fails to address the real issues related to ethnic intolerance and discrimination such as the poverty experienced by ethnic minorities and discrimination in the market place. Despite the fact that the government identified the issues of unemployment and social exclusion of ethnic minority groups as the main obstacles in the way of social integration of the minorities, the new "Strategy of Development of Ethnic Minority Policies 2007-2015" which was approved by the government of Lithuania in October 2007, did not address these issues.

(ix) - <u>Discrimination in the Labour Market</u>

The labour market of Lithuania also reflects divisions along ethnic lines. It is a fact that ethnic Lithuanians are more likely to be in the higher echelons of government and administration while the ethnic Poles and Russians are more likely to work as skilled or unskilled workers. Ethnic Poles and Russians admit that they have to rely

on their ethnic connections for getting a job (Kasatkina and Lioncikas 2003:106-108). These findings suggest the non-existence of equal opportunities in the labour market. Nevertheless, the European Commission against Racism and Intolerance reported that cases of employment discrimination are "extremely rare" due to "progressive labour legislation" adopted following the EU directives on employment. However, the European Commission against Racism and Intolerance acknowledged that ethnic discrimination may be the explanation to the fact that different ethnic groups have different employment status in Estonia (ECRI 2006: 8).

(x) - <u>Failure of Roma Integration</u>

The Lithuanian Human Rights Centre in cooperation with the Lithuanian youth organization "Transylvania" and a French ethnic minorities group became a part of a project sponsored by the Council of Europe. The project aimed at integration of ethnic minorities into Lithuanian society (Vaitiekus 1998:9). The national government decided to concentrate on the integration of Roma in 2000 when it released the "National Programme for the Integration of Roma into Lithuanian Society 2000-2004". The programme mainly concentrated on pre-school and artistic education of the Roma children. This programme was launched to facilitate Lithuania's accession to the EU. Thus, the programme stated that:

> ...desire of Lithuania to integrate faster into the European political, economic and security structures necessitates to make decisions regarding the social integration of Roma in a more timely fashion (Government of Lithuania 2000).

The European Commission against Racism and Intolerance, the Open Society Fund Lithuania and many other organizations praised the efforts of the Lithuanian government for trying to resolve the issues pertaining to the Roma who are clearly the most marginalized group in the Lithuanian society. However, the programme proved to be a failure because it did not explicitly address the problem of discrimination which the Roma constantly face in the spheres of employment, housing, education, health and other spheres. The Lithuanian government lacked the political will to take the programme seriously. The third report of the European Commission against Racism and Intolerance stated that the Lithuanian government did not provide sustainable funding for the measures outlined in the programme (ECRI 2006: 22-29).

The ECRI along with the UN Committee on the Elimination of Racial Discrimination criticized the "inadequate" progress made in addressing the problems experienced by Lithuania's Roma community. The two international organizations also took note of the widespread persistence of social problems such as unemployment, place of residence, health care and education (ECRI 2006; CERD 2006). The Lithuanian government issued yet another programme for the purpose of "Roma integration" which had not been approved of till the end of 2007 owing to the lack of vision of the government.

(xi) - Disconnect Between the International and Domestic Contexts

Human rights activists, defenders of minority rights and non-governmental organizations have proved to be extremely useful in interpreting and transferring norms to a domestic context. They have the capability to link international norms to local traditions and legitimize them in the eyes of the local people. However, the task of establishing a convincing link between the traditional minority rights regime with its roots in the Soviet nationalities policy and the European Union's anti-discrimination directives is undoubtedly a very tough task. Moreover, the human rights NGOs come across as weak actors in post-Soviet Lithuania because their internationalist agenda faces resistance from conservative political forces as well as from traditional minority communities. Resistance from traditional minorities to the European Union anti-discrimination discourse is generally seen as an "unintended consequence of international involvement aimed at empowering ethnic minorities".

During a public discussion of the minority situation in Lithuania which was organized by Laima Andrikiene, a member of the European Parliament, Vitalijus Karakorskis, Chairman of the Council of Ethnic Communities stated that:

> ...the interests of traditional ethnic minorities (ethnic Poles and ethnic Russians, among others) are often misrepresented, as because of the new EU directives, ethnic minorities are often discussed in the same context as gays or lesbians...we are rather conservative; we are interested in preserving traditions; thus, any association with the "other" minorities is unacceptable for us. Perhaps we should think about creating the position of an Ombudsman just for (traditional) ethnic minorities?

Karakorskis went on to question the ability of the European Union to cater to the needs of his community (Kilpys 2007).

(xii)- The EU and the Domestic Rights Regime

Lithuania's politicians were willing to test their limits for becoming part of the Euro-Atlantic security space prior to joining the European Union. It still has to comply with the directives of the European Union in the capacity of being a member-state. However, it does have the liberty to opt for the manner in which it would like the directives to be implemented. Lithuania's politicians have realized that there is a huge scope for interpretation and they amply made use of this freedom to grant or deny benefits to the marginalized sections of society including the minorities. Thus, the amendments to the Law on Equal Opportunities which intended to guarantee equal social and economic rights to sexual minorities was stalled on the basis of the argument that Lithuania is a unique Catholic country and therefore it should not be forced to follow unclear EU directives (Parliament of Lithuania 2007).

This particular instance shows the limitations of the European Union's influence on domestic minority rights regimes. International interventions do little to help overcome the sources of opposition to international norms which originate from the country's conservative social culture as in the case of Lithuania. The government of Lithuania has been unable to create "effective and fair sanctions" for those who violate anti-discrimination norms. Moreover, the local human rights NGOs are not permitted to represent the victims of discrimination in court. The local human rights NGOs are touted as the most enthusiastic supporters of international intervention aimed at fighting discrimination and promoting minority rights. Thus, the Lithuanian NGOs are engaged in numerous activities such as shaming campaigns, lobbying for the adoption of minority-friendly laws and careful monitoring of legislation (Rechel :2009:163).

Hence, the influence of the European Union in shaping the minority rights regime of Lithuania is limited. The effective implementation of the European Union's anti-discrimination directives and minority rights shall be possible only when the nascent civil society of Estonia shall become strong enough to transform the conservative social culture. Only then will the engagement with minority protection become more than a political ritual of listening to the foreigners.

IV -The Russian Angle in EU-Baltic Relations

The membership of the European Union offered the prospect of a symbolic return to Europe to the Baltic States after the era of Soviet domination (Cameron 2004: 35). The desire of integration with Western Europe was driven by "an acute desire to move their newly restored states out of the shadow of the former occupation power". This desire became even stronger because of Russia's persistent insistence on treating the Baltic states as its "Near Abroad" where special rights of interference presumably existed (Muiznieks 2006:8). The Russian objections rendered the "hard security" guarantees provided by NATO membership beyond the reach of the Baltic states during the 1990s and therefore, the "softer" form of security offered by the European Union proved to be an attractive alternative as it would enable the integration of the Baltic States with Western Europe without antagonizing Russia (Van Elsuwege 2002: 175).

Thus, the Baltic States found themselves to have become part of an extremely complicated relationship when they became member-state of the European Union in 2004. There was speculation as to whether the Baltic States would play the role of normal neighbours or trouble makers. However, it seemed that the Baltic States did not fit "neatly" in either category. The involuntary past association with Russia has undoubtedly provided the Baltic States with a special knowledge of the country and its people which would be of immense help to the European Union in dealing with Russia. However, this has not led the Baltic States to take an unduly negativist stance on EU cooperation with Russia.

It is believed that the status of Russian-speaking minorities in the Baltic States is an issue that possesses the endless ability to cause friction. It does seem a little odd that this particular issue should come up in the context of EU-Russian relations as an issue of potential conflict in the light of the fact that the European Union has itself recognized the adequacy of minority protection in the Baltic states and many of the legislative changes that were enacted to facilitate the integration of the minorities were carried out in the course of the process of accession to the European Union (Antonenko and Pinnick 2005:219).

This issue of minorities nevertheless surfaces unexpectedly in seemingly unrelated contexts. It was claimed that it was this particular issue that was responsible for Russia's reluctance to extend the Partnership and Cooperation Agreement to the new members of the European Union in 2004. It is also known to have come up during the border treaty negotiations.

Russia is undoubtedly interested in keeping the minority issues alive and thus both Russia and the Baltic states believe in externalizing the issue of minorities. Russia concentrates on maintaining bilateral relations with the Western European countries on one hand and makes direct representations to both EU institutions and the European Court of Human Rights. Konenko believes it to be a strategy of divide and rule as Russia continuously creates an appearance of crisis on an issue which Western Europe would generally consider to be peripheral in the hope of creating wider tension within the EU institutions and between member states (Kononenko 2006:76). This also increases the anxiety of the Baltic States as they are apprehensive that the EU at the end of the day may prioritise relations with Russia and ignore them completely (Viktorova 2006:10).

There is indeed hardly any evidence that Russia's linkage strategy is working. But the perception itself can lead to lethal damage. The support of some western politicians for Russia does not help the cause of the Baltic States while the EU does not seem to have taken the pains to dispel their fears. The possibility of minority issues occupying centre stage in a conflict between Russia and the Baltic states has not diminished. It still has the power and vigour to get out of control as seen in the case of the riots that took place in Tallinn over the removal of a Soviet monument.

Thus, the Baltic states have adopted a cooperative and a proactive attitude towards developing relations with Russia while remaining firm and insistent on issues such as the unsigned border treaties being addressed by the EU as a whole (Nielsen 2007:130). Such a modest, sanguine and multilateral approach will surely deliver better results for the Baltic States and enable them to benefit from the soft security that the European Union provides.

V- The Continuous Involvement of the EU in Baltic States

Thus, we see that the European Union has had a significant impact upon the minority rights regime of the Baltic States. However, the leverage of the EU diminished considerably in these states once the accession process was complete. The states have had to contend with numerous factors such as historical baggage of occupation by the Soviet Union and a disconnect between international and domestic norms. However, the Baltic States have consistently engaged themselves with the issue of minority rights protection and they have been receiving considerable financial support from the European Union in this endeavour. Thus the European Union comes across as an interested party in the arena of minority rights protection in the Baltic States.

****

CONCLUSION

The Central and East European countries had been subjected to the rule of authoritarian political systems which collapsed and set the stage for the establishment of democratic regimes, a liberal society and a market economy in the region. The setting up of a new system required the framing of new rules and codification of laws to be included in the constitutions of these countries. It was extremely necessary for the stability of the newly introduced democratic system that it ensured through the implementation of the laws security against attack on the multi-cultural, multi-linguistic and multi-ethnic fabric of these countries and everybody including the minorities were given ample freedom and space to speak their language and practice their culture. The European Union played the distinctive role of providing moral and material support to these countries for the purpose of evolving a framework which was amenable to the freedom of all and aimed at ensuring the establishment of a minority rights regime for safeguarding the rights and liberties of the minorities.

Earlier, the social and political lives of the people had been vitiated owing to the autocratic nature of the authoritarian political regimes. The hostilities that surfaced in these multi-ethnic and multi-linguistic societies were swept under the blanket as no room for conflict resolution was provided by the regime in power. As a result this ill-feeling did not do a disappearing act and continued to simmer. Therefore, a real danger stared in the face of these countries when the dictatorial regimes collapsed because of the surfacing of the animosity between the different groups, especially the majority community on one hand and the minority on the other, became a real possibility with the ushering in of democracy. Such an outburst by one community against the other would have had the potential to engulf the entire society and seriously jeopardize the stability and credibility of the government. Hence, the basic challenge at this juncture for these countries was to bring about the smooth, successful, peaceful, trouble-free and complete transition from one system to another. The ethno-national conflicts increased after the end of the Cold War. The European Union made every effort to ensure harmonious relations among the different peoples

of these countries and paid special attention to the minorities of Central and Eastern Europe.

There is no universally acceptable definition of minorities. However, there has been a lot of debate and discussion regarding the issues of minorities. As a result, every definition of minorities put forth by different actors essentially has certain ingredients in its formulation. Therefore, a minority recognized by the state will possess distinct ethnic, cultural, religious and linguistic characteristics. They shall also be known to possess old ties with the state and should comprise of a smaller group compared to the rest of the population of the State. Similarly, there is a common if not universal notion of minority protection. The rights of the minorities are considered to be protected if the principle of equality is upheld in the social, political, legal and cultural spheres and freedom of association, language, religious belief and access to the media is ensured apart from effective political participation.

Every major European treaty right from the treaty of Westphalia engaged itself with the issue of minority rights. The agenda of the minorities in the period after the First World War was hijacked by the Great Powers at forums such as at the League of Nations. The rise of the Third Reich worsened the condition of the minorities in Europe and brought many of these communities to the brink of extinction. The protection of the rights of minorities after the end of the Second World War was taken up at the United Nations which chose to undertake under the influence of the major powers, the commitment to individual human rights over the collective approach which was considered to be a step in the backward direction as it was a recourse taken to skirt and not solve problems of the minorities. Minority considerations were driven to the periphery during the Cold War as the collapse of the communist regimes had gradually become imminent and the dominant concern of the European Community became the articulation of a mature response to the nemesis of the East-West confrontation.

The necessity for the codification of minority rights standards was felt by international organizations as well as by the European Union and the North Atlantic Treaty Organisation who declared minority rights to be a fundamental European value which subsequently led to minority protection to become a pre-condition for accession to the European Union in the 1990s.

A disconnect was seen between Western Europe and the Central and East European countries regarding the exact meaning of norms pertaining to minority rights. The partition between extremely important norms and those that were only politically expedient was blurred. The Central and East European Countries were being made to swallow norms and conditions down their throat by means of the Copenhagen Criteria which the countries of Western Europe had hardly tried to accept and work upon themselves.

The initiatives taken by the Organization for Security and Cooperation in Europe, the Framework Convention for the Protection of National Minorities, the Charter of Fundamental Rights of the European Union, The European Convention on Human Rights and the Council of Europe to bolster the standing of the minority communities in the post-communist states were significant indeed. It can therefore be said that the European Union used an extensive framework of legal instruments apart from the conditionalities directly imposed by it for securing minority rights protection in the Central and East European countries.

However, most of these instruments had almost nothing more to offer than what was already ensured by the existing international treaties. There is an abundance of hollow phrases and rhetoric and the content of these legal instruments reveals an extremely non-committal nature towards the taking of concrete action for the purpose of ameliorating the condition of the minorities. The ambiguity of provisions and confusion in the interpretation of the norms and laws mentioned in the legal instruments, the non-binding nature of recommendations made in the context of the minorities and the principle of subsidiarity used by the member-states makes it extremely difficult for the European Union to make a tangible improvement in the condition of the minorities of Central and Eastern Europe.

The soundness and firmness of the political structure of the government and the political will of those in power will significantly determine the degree of success in the realization of the minority rights and the implementation of the undertakings. A close and greater involvement of the local and regional authorities is extremely necessary for the proper implementation of the minority rights standards. The EU institutions may launch a number of initiatives that could seek the participation of the civil society for the purpose of exchanging information and knowledge in order to

bring about awareness about minority rights and issues and ensure their protection. It is true that task of bringing into existence an efficiently functioning institutionalized and applied minority protection system is extremely difficult.

The states of Central and Eastern Europe were striving to become part of the European Union for securing economic and security advantages for their well-being on the one hand and were aiming to safeguard their culture on the other. They were however ready to make compromises because they were aware of the fact that membership of the European Union was indispensable for perpetuating their prosperity.

The crucial questions such as the definition of minorities, the granting of rights to citizens or non-citizens and the choice between individual and collective concepts continue to be a matter of debate and discussion. The vague and general formulation of minority rights in the Copenhagen criteria has not provided clarity to the provisions regarding minority protection. Hence, minority protection continues to be an unclear norm. The specific demands that were made by the minority communities had contributed significantly in defining the membership criterion of minority protection.

The domestic stability was threatened in the states of Central and Eastern Europe by the EU conditionality owing to the insertion of additional incentives for compliance with the European Union. The conditionality has proved to be effective only when the benefits accruing to the states as a result of compliance have been extremely attractive. The impact of the EU conditionality on the state has also depended upon the role and the attitude of the political party in power.

The process of monitoring of minority rights by the European Union as a political condition for membership seems to end with the process of accession of the states to the European Union. Therefore, the final progress reports on the participants of the 2004 enlargement do not mention any more the political criteria and minority protection and only seem to focus on the transposition of the aquis communitaire.

The EU conditionality has further been impacted upon by the absence of a single EU policy framework in many policy areas. There is a lot of variation in the practices of the EU member-states of Western Europe and Central and Eastern Europe

which has militated against the emergence of the EU as a role model for bringing about the smooth resolution of conflicts and controversies involving the minorities.

It has been alleged that human rights have played a secondary role in the accession process. This is considered to be one of the most serious charges levelled against the political conditionality of the European Union. Geopolitical considerations and the concern for maintaining regional peace and security in the beginning of the 1990s were the major reasons for the inclusion of political criterion of minority protection rather than any genuine concern for minority rights. The candidate countries were granted membership despite the unchanged conditions and continued violations of minority rights. Hence, the pressing problems in the area of minority protection were not considered to be an obstacle to the process of accession to the European Union. The propagation of the idea of a certain minority group acting as an impediment that could halt accession exacerbated the hostility towards them.

The credibility of the monitoring procedure has often been questioned because it has been alleged that the European Commission's Regular Reports were very general and vague in nature and the information very often proved to be extremely controversial. The European Commission seemed to have mostly focused on only two minorities which are the Russian-speaking minorities in Estonia and Latvia and the Roma while minorities such as the Pomaks and Macedonians hardly find any mention in the Regular Reports.

The European Union does not have in place a comprehensive and coherent human rights policy. Consequently, it does not possess the legal competence for dealing with human rights issues. The political criteria seem to have been purposely designed to be ambiguous and unclear due to the incapacity of the EU to assert itself in this area.

The basic criterion for citizenship of the states has been ethnicity and the procedure is infested with numerous obstacles that seem to be insurmountable for the minorities. The peace and stability of the member-states shall face a serious threat owing to the continuous negligence of the minorities. Such a threat can be counteracted by having in place a monitoring system that shall extend to all EU member-states. However, there is currently no such system in place.

The European Union has concentrated on government institutions and programmes instead of making an attempt to eliminate the racist attitudes prevalent among the general population and end the existing acrimony in the majority-minority relations. It is also alleged that the European Union has not pledged significant sums of money for the protection of minorities of Central and Eastern Europe. The participation of minorities in elections can only be made possible through adequate financing. The lack of funds hinders the implementation of minority rights especially the international minority standards.

The official census data for the purpose of analysis of minority protection is not considered to be very reliable. The non-governmental organizations that are engaged with the promotion of minority rights are known to have spread awareness among the minorities about the privileges that they are entitled to and have also highlighted the issues where there is room for resentment and violation of minority rights.

The Roma continue to be the most victimized group of minorities who are known to have suffered in numerous states of Central and Eastern Europe such as Czech Republic, Hungary, Slovenia and Romania. The incitement for the formation of negative stereo-types and the usage of acerbic political statements concerning national and in particular ethnic minorities through the media are quite common in several states of Central and Eastern Europe although such activities are strictly prohibited by domestic laws and the FCNM. Such acts are generally committed against the Roma population.

The problems pertaining to minorities have continued to be extremely explosive in nature in many states of Central and Eastern Europe. A rejuvenation of ethnic identity after the collapse of communist rule has been witnessed in this area which has led to confrontations between the majorities and the minorities of various ethnic communities.

Ethnic politics in the post-communist phase has many variants that exist in the form of cultural revivalism, political autonomism, separatism and irredentism. These forms of politics however are often not found to be mutually exclusive or permanent in case of a nationality but are also viewed as the potential stages of development.

The exercise of opting for the alternative of neutrality and selective and partial focus on human rights shall amount to neglecting the issue of minorities which in turn might encourage the government to follow the process of assimilation that would undermine the ethnic, cultural and religious identity of the minorities and provoke conflicts.

Ethnic relations in the domestic arena are impacted upon by international politics. The continuous interaction between minority activists, state actors and actors who are related to the external homeland of a minority population, leads to the establishment of ethnic relations.

It is desirable for the European Union to come up with a framework that shall oversee the protection of minorities as it would do away with the vacuum left after the end of the monitoring exercise that took place during the accession process. The creation of the post of an "ambassador for minorities" in the European Parliament would also help in making people aware about the condition of minorities in the member-states of the EU.

Minority leaders must also observe their obligations towards the state especially when minority interests are reasonably respected and represented because they will then be in a better position to employ international intervention and mediation as a means to pressurize the government for taking up the cause of minority rights. Such measures will invariably lead to the creation of an atmosphere conducive for the purpose of initiating dialogue and compromise.

A case study of the Baltic States has revealed that the future of majority-minority relations seemed promising. The EU conditionality has played a vital role in all the three states in the shaping of the minority policy. The governments have started work in full swing for ensuring the success of the integration of the minorities. The European Union has been helpful in making available funds for projects concerning the well-being of the minorities. The Baltic States have also made concerted efforts to eliminate all kinds of socio-economic disparities between the majority community and the minorities in their respective states. The European Union currently finds itself playing a new role in the Baltic States in which it makes use of soft persuasion as its power of conditionality has vanished after accession of the Baltic States to the

European Union. A number of unresolved issues remain such as the fulfillment of the vital needs of the non-citizen population and legal challenges to the restrictions imposed on minority language and culture. The civil society of the Baltic States requires to demonstrate its strength and grit for the purpose of re-shaping the existing minority rights regime which is rooted in the nationality policy of the Soviet era so that it becomes easy for the transposition of norms of ethical and racial tolerance promoted by the European Union. The EU has contributed in making the minority policy of the Baltic States highly institutionalized and responsive to the grievances aired by the minorities.

It becomes clear by means of the study that the manifestation of specific characteristics by a community does not violate the tenets of liberalism if an effort is made to delink ethnicity from the state. Such an approach makes it possible for the state to adopt a multicultural policy and cater to the needs of the minority community on account of the fact that collective rights of minority cultures are found to be consistent with liberal democratic principles. It can thus be said that the liberal philosophical foundation of the European human rights system has led to the evolution of the universal right to ethnic identity. However, the principle of unity in diversity should be upheld at all costs and no cracks should be allowed to be made by divisive forces in the name of asserting one's minority identity in the multi-ethnic, multi-cultural and muti-linguistic states of Central and Eastern Europe.

This study has proved to be extremely useful in understanding the dynamics of the relationship of EU and its new member-states of Central and Eastern Europe. It has indeed become clear that is not solely the all-important economic aspect that dictates the equation between the EU and the member-states of Central and Eastern Europe. Issues such as minority protection and other political and social aspects have also captured the attention of the European Union. This is an indication of the emergence of the EU as a political actor in its area of influence. The EU has had a distinctive contribution in the countries of Central and Eastern Europe right from the days of accession negotiations up to the process of accession and it continues to play an important role in giving shape to the minority policy in these countries till date. The European Union has taken pains to ensure that there is no conflict and acrimony in the relations between majority and minority communities of a state. The EU was

able to do so by pressurizing, coaxing, chiding, threatening and persuading the member-states to do its bidding. A number of loopholes however remain and a lot more is expected from the EU in bringing about the betterment of the minorities. Yet, it would certainly not be wrong to state that the EU has contributed immensely in the formulation and implementation of a sound minority rights regime in the countries of Central and Eastern Europe.

****

BIBLIOGRAPHY

*Council of Europe (2001), "Rights of National Minorities", 1 July, URL: http://assembly.coe.int/Documents/WorkingDocs/doc01/EDOC8943.htm.

*Council of Europe, "Convention for the Protection of Human Rights and Fundamental Freedoms", 27 May, URL: http://www.echr.coe.int/NR/rdonlyres/D5CC24A7-DC13-4318-B457-5C9014916D7A/0/EnglishAnglais.pdf.

*Office for Democratic Institutions and Human Rights, "Consolidated Summary of the CSCE Human Dimension Seminar on Tolerance, Warsaw", 16-20 November 1992", 26 May, URL: http://www.osce.org/documents/odihr/1992/12/1766_en.pdf.

*Official Journal of the European Communities, "Charter of Fundamental Rights of the European Union", 29 May, URL: http://www.europarl.europa.eu/charter/pdf/text_en.pdf.

*Phamphlet no. 8 of the UN Guide for Minorities, "The Council of Europe's Framework Convention for the Protection of National Minorities", 29 May, URL: http://www.ohchr.org/Documents/Publications/GuideMinorities8en.pdf.

*Stability Pact for South Eastern Europe, "Conference on Security and Cooperation in Europe, Final Act, Helsinki 1975", 24 May, URL: http://www.seerecon.org/region/sp/helsinki.htm.

*United Nations (1948) "Universal Declaration of Human Rights", 21 May, URL: http://www.un.org/en/documents/udhr.

*United Nations (2004), "Charter of the United Nations", 19 May, URL: http://www.un.org/aboutun/charter/preamble.shtml.

Academic Dictionaries and Encyclopedias, "Framework Convention for the Protection of National Minorities", 30 May, URL: http://dic.academic.ru./dic.nsf/enwiki/892960.

Adomenas, M. *et al.* (2007), *The Lithuanian Nation: Its Current Status and Its Future*, Vilnius: Versus Aureus.

Alston, P. (1999), *The EU and Human Rights*, Oxford: Oxford University Press.
Alston, Philip and Mara Bustelo (1999), *The EU and Human Rights*, Oxford: Oxford University Press.

Antonenko, Oksana and Kathryn Pinnick (2005), *Russia and the European Union*, London:Routledge.

Arzoz, Xabier (2008), *Respecting Linguistic Diversity in the European Union*, Philadelphia: John Benjamins Publishing Company.

Baldwin, Richard et al. (1997), "The costs and benefits of EU enlargement to the East", *Economic Policy*, 24: 125-176.

Baltic Institute for Social Science (2006), *Research on Human Rights in Latvia: A Report in Graphics*, Riga: BISS.

Begg, Iain and John Peterson (1999), "Editorial Statement", *Journal of Common Market Studies*, 37: 1-12.

Benedikter, Thomas (2006), "Legal Instruments of Minority Protection in Europe-An Overview", Minorities in Europe, Society for Threatened Peoples, 1 July, URL:http://www.gfbv.it/3dossier/eu-min/autonomy-eu.html.

Benes, E. (1942), "The Organisation of Postwar Europe", *Foreign Affairs*, 20 (1): 226-242.

Biro, Anna Maria and Petra Kovacs (2001), *An Unfinished Story of Minority Rights*, Budapest: LGI Books.

Bloed, Arie (1994), *The challenges of change:the Helsinki Summit of the CSCE and its aftermath*, Boston: Martinus Nijhoff Publishers.

Boemeke, Manfred Franz et al. (1998), *The Treaty of Versailles: A Reassessment after 75 Years*, Cambridge: Cambridge University Press.

Bogaards, M. (2000), "The Uneasy Relationship Between Empirical and Normative Types in Consociational Theory", *Journal of Theoretical Politics*, 12: 395-423.

Brandtner, B. and A. Rosas (1998), "Human Rights and the External Relations of the European Community: an Analysis of Doctrine and Practice", *European Journal of International Law*, 9(3): 468-490.

Brubaker, Rogers. (1996), *Nationalism Reframed: Nationhood and the National Question in the New Europe*, Cambridge: Cambridge University Press.

Bugajski, Januz (1993), "The Fate of Minorities in Eastern Europe", *Journal of Democracy*, 4 (4): 85-99.

Buhbe, Matthes and Iris Kempe (2005), "Russia, the EU and the Baltic States, Enhancing the Potential for Cooperation", *Centre for Applied Policy Research,* [Online: web] Accessed 12 June 2008, URL: http:// 2006_Russia-EU Baltic.pdf.

Burton, Ned (2002), *Assessing the Accession Criteria, Report from Workshop 1: Political Dimensions of the Accession Criteria*, Birmingham, UK: Europea Research Institute.

Cameron, David R. (2003), "The Challenges of Accession", *East European Politics and Societies*, 17 (1): 24-41.

Claude, Inis (1955), *National Minorities: An International Problem*, Cambridge: Harvard University Press.

Cohen, Israel (1952), *Travels in Jewry*, London: E. Goldston.

Cordell, Karl (1999), *Ethnicity and democratization in the new Europe, London; New York*: Routledge.

Council of Europe (2007), Country Specific Information, Strasbourg: Council of Europe, 6 July, URL: www.coe.int/t/e/human_rights/minorities/Country_specific_eng.asp#P428_22391.

Council of Europe (2009), "Council of Europe, Human Rights of Law, Democracy, Rule of Law", 27 May, URL: http://www.coe.int/AboutCoe/media/interface/publications/Glossy en.pdf.

Council of Europe, "European Charter for Regional or Minority Languages", 30 May, URL: http://conventions.coe.int/Treaty/en/Summaries/Html/148.htm.

Council of Europe, "European Charter for Regional or Minority Languages", 30 May, URL: http://coventions.coe.int/Treaty/EN/Treaties/Html/148.htm.

Council of Europe, "Framework Convention for the Protection of National Minorities and Explanatory Report", 29 May, URL: http://www.coe.int/t/dghl/monitoring/minorities/1_AtGlance/PDF_H(1995)010_FCNM_ExplanReport_en.pdf.

Deets, Stephen (2002), "Reconsidering East European Minority Policy: Liberal Theory and European Norms", *East European Politics and Societies*, 16: 30-53.

Deets, Stephen (2006), "Reimagining the Boundaries of the Nation: Politics and the Development of Ideas on Minority Rights", *East European Politics and Societies*, 20: 419-446.

Department of Statistics (2001), "Data of the 2001 population census", 11 July, URL: http: // www.stat.gov.lt/en/pages/view/?id=1544.

Digital Civil Rights in Europe (2005), "UK Presidency attacks European Convention on Human Rights", 27 May, URL: http://www.edri.org/edrigram/number3.18/attackonhumanrights.

Donskis, L. (2005), "Expressions of Post-colonial Consciousness", 6 July, URL: http://www.politika.lt/index.php?cid=9299&new_id=4558.

Dorodnova, J. (2003), Challenging Ethnic Democracy: Implementation of the Recommendations of the OSCE High Commissioner on National Minorities to Latvia, 1993-2001, Centre for OSCE Research Working Paper 10, 7 July, URL: www.core-hamburg.de/english/publications/workingpapers.

Eesti Migratsioonifond (2006), "Allocation of Resources from the Migration Fund for Migration Support Based on Migration Registry Data", Tallinn, URL: www.migfond.ee/ee/pages.php?action=view&page_id=34.

Eesti Statistikaamet (2002), "Population by Ethnicity Foreign Language Knowledge and Citizenship", 5 July, URL: http://pub.stat.ee/px-web.2001/Database/Rahvaloendus/15Rahvus_Emakeel_Veerkeelte_oskus/15Rahvus_Emakeel._Veerkeelte_oskus.asp.

Elsuwege, P. (2004), "Russian-speaking Minorities in Estonia and Latvia: Problems of Integration on the Threshold of the EU", ECMI Working Paper, 20: 1-56, 7 July, URL: http://www.ecmi.de/download.working paper 20.pdf.

ELTA Lithuanian News Agency (2007), "Lithuania is criticized by the EU because of racial discrimination", 7 July, URL: http://www.elta.lt/sablonas1.php?kalba=en.

Encyclopaedia Britannica, "History of Baltic States", 1 July, URL: http://www.britannica.com/EBchecked/topic/50995/history-of-Baltic-States.

Ethnic Research Centre (2007), "Public Opinion Poll Data", 6 July, URL: http://www.ces.lt/downloads/structure/files/ETC%202007%2002%2005-19%20apklausa.pdf.

Europa Glossary, "Charter of Fundamental Rights", 28 May, URL: http://europa.eu/scadplus/glossary/charter_fundamental_rights_en.htm.

Europa Glossary, "European Convention on Human Rights", 27 May, URL: http://europa.eu/scadplus/glossary/eu_human_rights_convention_en.htm.

Europa, "Accession criteria (Copenhagen criteria)", 23 May, URL: http://europa.eu/scadplus/glossary/accession_criteria_copenhague_en.htm.

European Bank for Reconstruction and Development (1992), *Human Rights Aspects of the Citizenship Issues in Estonia and Latvia by Asbjorn Eide*, London: European Bank for Reconstruction and Development.

European Centre of Minority Issues (2004), *Mechanisms For the Implementation of Minority Rights*, Strasbourg: Council of Europe Publishing.

European Commission (1997), "Agenda 2000- Commission Opinion on Lithuania's Application for Membership of the European Union" 6 July, URL: http://ec.europa.eu/enlargement/archives.pdf/dwn/opinions/lithuania/li-op_en.pdf.

European Commission (1997), "Agenda 2000-Commission Opinion on Estonia's Application for Membership of the European Union", Brussels: European Commission.

European Commission (1999), Regular Report from the Commission on Estonia's Progress Towards Accession, Brussels: European Commission.

European Commission (2003), "The Charter of Fundamental Rights of the EU- all personal,civil, political, economic and social rights in one simple text", 28 May, URL: http://ec.europa.eu/justice_home/fsj/rights/charter/fsj_rights_charter_en.htm.

European Commission against Racism and Tolerance (2006), "Third Report on Lithuania", 6 July, URL: http://www.coe.int/t/e/human_rights/ecri/1-ECRI/2-Country-by-Country_approach/Lithuania/Lithuania_CBC_3.asp.

European Commission, "Enlargement", 1 July, URL: http://ec.europa.eu/enlargement/5th_enlargement/index_en.htm.

European Council (1998), "Council Decision on the Principles, Priorities, Intermediate Objectives and Conditions Contained in the Accession Partnerships with the Republic of Estonia", *Official Journal of the European Communities*, 121:26-30.

European Council (2002), Council Decision on the Principles, Priorities, Intermediate Objectives and Conditions Contained in the Accession Partnership with the Republic of Estonia", *Official Journal of the European Communities*, 44: 29-36.

European Court of Human Rights (2002), Chamber Judgement in the case of Podkolzina v. Latvia, 9.4.2002, press release, 6 July, URL: www.echr.coe.int/eng/Press.2002/apr/PR%20Podkolizina%2009042002E.htm.

European Navigator, "Treaty Establishing a Constitution for Europe (Rome, 29 October 2004)", 25 June, URL: http://www.ena.lu/treaty_establishing_constitution_europe_final_act_rome_29_october_2004-020302589.html.

European Union Agency for Fundamental Rights (2007), *Report on Racism and Xenophobia in the Member States of EU*, Vienna: European Union Agency for Fundamental Rights.

Featherstone, Kevin and Claudio Radaelli (2003), *The Europeanisation of Public Policy: Theory, Methods and the Challenge of Empirical Research*, Oxford: Oxford University Press.

Forsythe, David P. (1994), *Human Rights in the New Europe*, Lincoln: University of Nebraska.

Fraser, Cameron (2004), *The Future of European Integration and Enlargement*, London: Routledge.

Friedman W. (1938), "The Disintegration of European Civilization and the Future of International Law", *Modern Law Review*, 194-214.

Gal, Kinga (2000), "The Council of Europe Framework Convention for the Protection of National Minorities and its Impact on Central and Eastern Europe", *Journal on Ethnopolitics and Minority Issues in Europe*, 1-17.

Galbreath, D.J. and M.E.Galvin (2005), "The Titularization of Latvian Secondary Schools: the Historical Legacy of Soviet Policy Implementation", *Journal of Baltic Studies*, 36 (4): 449-466.

Gindley, Anton (2005), *History of the Thirty Years' War Part Two*, London: Kessinger Publishing.

Government of Lithuania (2000), "Decision of the Government of Lithuania No.759,1 July 2000 on the Programme of Roma Integration into Lithuanian Society 2001-2004", 7 July, URL: www.tmid.lt/images/default/source/attachments/RIILVP_2000-2004.pdf.

Grabbe, Heather (1999), "A Partnership for Accession? The Implications of EU Conditionality for the Central and East European Applicants", *Robert Schuman Centre Working Paper*, 12(9): 1-34, URL: http://www.cer.org.uk/pdf/grabbe_conditionality_99.pdf.

Grabbe, Heather (2002), "Europeanisation Goes East: Power and Uncertainty in the EU Accession Process", Turin: Paper for the ECPR Joint Sessions of Workshops, 24 May, URL: http://www.cer.org.uk./pdf/grabbe_europeanisationgoeseast_2002.pdf.

Greer, S.C. (2006), *The European Convention on Human Rights, Achievements, Problems and Prospects*, Cambridge: Cambridge University Press.

Guardian.Co.UK (2009), "European court of human rights: Courting disaster", 28 May, URL: http://www.guardian.co.uk/commentisfree/2009/apr/11/european-court-of-human-rights.

Guidry, John A. et al. (2000), *Globalisations and Social Movements: Culture, Power and the Transnational Public Sphere*, Ann Arbor: University of Michigan Press.

Guy, Will (2003), "No Soft Touch: Romani Migration to the U.K. at the Turn of the Twenty-First Century", *Nationalities Papers*, 31: 63-79.

Gwiazda, Adam (1994), "National Minorities in Poland and the Baltic States", *International Relations*, 12: 71-80.

Hansen, Holley E. and Zachary D. Green (2008), "Transmitting Europe: The European Union and Minority Rights in the Baltic", *Working Paper*, [Online:web] Accessed 12 June 2008, URL:

Haughton, Timothy (2005), *Constraints and Opportunities of Leadership in post-Communist Europe*, Burlington: Ashgate Publishing.

Headlam-Morley, James Wycliffe (1972), *A Memoir of the Paris Peace Conference, 1919*, London: Methun.

Heraclides, Alexis (1993), *Security and Cooperation in Europe: The Human Dimension, 1972-1992*, London and New York: Routledge.

Hervey, Tamara K. (2003), *Economic and Social Rights Under the EU Charter of Fundamental Rights: A Legal Perspective*, Oxford and Portland Oregon: Hart Publishing.

Herz J. (1939), "The National Socialist Doctrine of International Law and the Problems of International Organisation", *Political Science Quarterly*, 44(4): 536-554.

Hogan-Brun, G. (2006), "At the Interface of Language Ideology and Practice: The Public Discourse Surrounding the 2004 Education Reform in Latvia", *Language Policy*, 5(2): 69-73.

Hogan-Brun, Gabrielle (2005), "The Baltic Republics and Language Ideological Debates Surrounding European Union Accession", *Journal of Multilingual and Multicultural Development*, 26(5): 367-377.

Hough, W.J.H.I. (1985), "The Annexation of the Baltic States and Its Effect on the Development of Law Prohibiting Forcible Seizure of Territory', New York Law School, Journal of International and Comparative Law, 6:301-533, accessed on 7th May, 2009 from URL: http://www.allacademic.com//meta/p_mla_apa_research_citation/0/7/3/1/9/pages73195/p73195-1.php.

Hughes, J. (2005), "Exit in Deeply Divided Societies:Regimes of Discrimination in Estonia and Latvia and the Potential for Russophone Migration", *Journal of Common Market Studies*, 43(4): 739-762.

Hughes, James and Gwendolyn Sasse (2003), "Monitoring the Monitors: EU Enlargement Conditionality and Minority Protection in the CEEs" *Journal on Ethnopolitics and Minority Issues in Western Europe*, 1:1-37.

Hughes, James et al. (2004), *Europeanisation and Regionalisation in the EU's Enlargement to Central and Eastern Europe: The Myth of Conditionality*, Houndmills, UK: Palgrave Macmillan.

Human Rights Monitoring Institute (2006), "Implementation of Human Rights in Lithuania in 2005", 7 July, URL: http://www.hrmi.lt/images/img/Zmogaus_teises2006-2007_maketas.pdf.

Immigration News (2007), "Minorities in Eastern Europe are more likely to emigrate", 1 July, URL: http://www.workpermit.com/new/2007-11-30/europe/research-says-minorities-eastern-europe-more-likely-emigrate.htm.

Jacoby, Wade (2004), *The Enlargement of the European Union and NATO: Ordering from the Menu in Central Europe*, Cambridge: Cambridge University Press.
Jarve, P. (2002), "Two Waves of Language Laws in the Baltic States: Changes of Rationale?", *Journal of Baltic Studies*, 33: 78-110.

Jenne, Erin K. (2007), *Ethnic Bargaining: The Paradox of Minority Empowerment*, Ithaca, New York: Cornell University Press.

Johns, Michael (2003), "Do As I Say, Not As I Do: The European Union, Eastern Europe and Minority Rights", *East European Politics and Societies*, 17: 682-699.

Judith, Kelly (2004), *Ethnic Politics in Europe: The Power of Norms and Incentives*, Princenton: Princeton University Press.

Junghann, Otto (1932), *National Minorities in Europe*, New York: Covici Friede.
Kala, K. (1992), "On the Ethnic Composition of Estonia after the Second World War", *Akadeemia*, 3: 508-535.

Kalnius, P. (1998), *Ethnic Processes in Eastern Lithuania During the Second Half of the Twentieth Century*, Vilnius: Zara.

Kasatkina, N. and T. Leoncikas (2003), *Adaptation of Ethnic Groups in Lithuania: Its Context and Process*, Vilnius: Eugrimas.

Kaufmann, Eric (2000), "Liberal Ethnicity: Beyond Liberal Nationalism and Minority Rights", *Ethnic and racial studies*, 23(6): 1086-10119.

Keck, Margaret and Kathryn Sikkink (1998), *Activists beyond Borders: Transnational Advocacy Networks in International Politics*, Ithaca, New York: Cornell University Press.

Keller, Perry (1998), "Re-thinking Ethnic and Cultural Rights in Europe', *Oxford Journal of Legal Studies*, 18: 29-59.

Kelley, J. (2003), "Does Domestic Politics Limit the Influence of External Actors on Ethnic Politics?", Human *Rights Review*, 4:35-54.
Kemp, W.A. (2001), *Quiet Diplomacy in Action: The OSCE High Commissioner on National Minorities*, The Hague: Kluwer Law International.

Kilpys, V. (2007), "The Situation of Ethnic Minorities in Lithuania discussed in Vilnius", 7 July, URL: www.bernardinai.lt/index.php?url=articles/63088.

Knill, Christoph and Dirk Lehmkuhl (1999), "How Europe matters: different mechanisms of Europeanisation" *European Integration online Papers 3*, 23 May, URL: http://eiop.or.at/eiop/texte/1999-07a.htm.

Kolsto, P. (1995), *Russians in the Former Soviet Republics*, London: Hurst.
Krasner, Stefan (1999), *Sovereignty: Organized Hypocrisy*, Princeton, NJ: Princeton University Press.

Kubicek, P.J. (2003), *The European Union and Democratisation*, London: Routledge.
Kupchan, Charles A. (1995), *Nationalism and Nationalities in the New Europe*, Ithaca, New York: Cornell University Press.

Kuus, M. (2004), "Those Goody Goody Estonians : Towards Rethinking Security in the European Union Candidate States", *Society and Space*, 22: 191-207.

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

Kymlicka, Will (2001), *Politics in the Vernacular*, Oxford: Oxford University Press.
Lauristin, M. and M. Heidmets (2003), *The Challenge of the Russian Minority: Emerging Multiculturalism in Estonia*, Tartu: Tartu University Press.

Leibniz Universitat Hannover Summer Academy (2009), "Minorities in Eastern Europe, Minority Politics and Minority Conflicts in Eastern Europe from the 19th to the 21st Centuries", 1 July, URL: http://www.h-net.org/announce/show.cgi?ID=167564.

Lemkin, Raphael (1944), *Axis Rule in Occupied Europe*, Washington, D.C.: Carnegie Endowment for International Peace.

Letschert, Rianne M. (2005), *The Impact of Minority Rights Mechanisms*, The Hague: Cambridge University Press.

Levene, Mark (1992), *Wars, Jews and the New Europe: The Diplomacy of Lucien Wolf, 1914-1919*, Oxford: Oxford University Press.

Lukumiete, D. (2005), Racism in Latvia: ENAR Shadow Report 2005, Brussels: European Network Against Racism, 6 July, URL:www.enar-eu.org/en/national/latvia/Latvia_2005.pdf.

Macartney, C.A. (1968), *National States and National Minorities*, New York: Russsell and Russell.

Marcinkevicius, R. (2007), "Dual Citizenship may lead to a Second Independence Movement", 6 July, URL: www.ivaizdis.lt/res_zinlpr_det.php?id=14456.

Mazower, Mark (1997), "Minorities and the League of Nations in interwar Europe", *Daedalus*, 126: 1-18.

Mercator International Symposium (2004), "Linguistic Diversity and Education: Challenges and opportunities", 31 May, URL: http://www.ciemen.org/mercator/frisia.ppt.

Minister of Population Affairs (2000), *State Programme, Integration in Estonian Society 2000-2007*, Tallinn: Office of the Minister of Population Affairs.

Mitrofanovs, M. et al. (2006), *The Last Prisoners of the Cold War: The Stateless People of Latvia in Their Own Words*, Riga: Averti-R Ltd.

Moravcsik, Andrew and Milada Anna Vachudova (2003), "National Interest, State Power and EU", *East European Politics and Societies*, 17 (1): 42-57.
Motyl, A. J. (1985), "Ukrainian Nationalist Political Violence in Inter-War Poland, 1921-1939", *East European Quarterly*, 19 (1) : 23-52.

Muiznieks, Nils (2006), *Latvian-Russian Relation: Domestic and International Dimensions*, Riga : Latvijas Universitate.

Mulaj, Klejda (2008), *Politics of Ethnic Cleansing: Nation-state Building and Provision of/ In Security in Twentieth-century Balkans*, Lanham: Lexington Books.

Naturalization Board of the Republic of Latvia (2008), "Statistics on Naturalisation", 6 July, URL: www.np.gov.lv/index.php?en=fakti_en&saite=statistic.htm.

Niederhauser, Emil (1982), *The rise of nationality in Eastern Europe*, Budapest: Corvina K.

Nielsen, Kristian L. (2007), "Opportunities and Limitations for the Baltic States of the EU-Russian Strategic Partnership", *Baltic Security and Defence Review*, 9: 109-130.

OSCE HCNM (1999), High Commissioner Welcomes State Language Law in Latvia, press statement, The Hague: OSCE HCNM, 7 July, URL: http://www.am.gov.lv/en/policy/4641/4642/4656.

Ozolins, U. (2003), "The Impact of European Accession upon Language Policy in the Baltic States", *Language Policy*, 2: 217-238.

Parliament of Lithuania (2007), "Minutes of the Sixth (327) Parliamentary Session, 18 September 2007", 7 July, URL: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=304466.

Peers, Steve and Angela Ward (2004), *The EU Charter of Fundamental Rights*, United Kingdom: Hart Publishing.

Pentassuglia, Gaetano (2001), "The EU and the Protection of Minorities: The Case of Eastern Europe", *European Journal of International Law*, 12 (1): 3-38.
Petrova, Dmitrina (2003), "The Roma: Between a Myth and the Future", *Social Research*, 70 (1): 111-161.

Pettai, V. and K. Hallik (2002), "Understanding Processes of Ethnic Control: Segmentation Dependency and Cooptation in Post-communist Estonia", *Nations and Nationalism*, 8: 505-529.

Phillips, Alan and Allan Rosas (1993), *The UN Minority Rights Declaration*, London: Minority Rights Group.

Preece, Jennifer Jackson (1999), *National Minorities and the European Nation-State System*, Oxford: Oxford University Press.

Preston, Christopher and Chris Preston (1997), *Enlargement & Integration in the European Union: Issues and Strategies*, London and New York: Taylor& Francis.

Ram, Melanie (2003), "Democratisation through European Integration: The Case of Minority Rights in the Czech Republic and Romania", *Studies in Comparative International Development*, 38 (2): 28-56.

Rechel, Bernd (2008), "What Has Limited the EU's Impact on Minority Rights in Accession Countries?", *East European Politics and Societies*, 22 (1): 171- 191.

Rechel, Bernd (2009), *Minority Rights in Central and Eastern Europe*, London; New York: Routledge.

Roach, Steven C. (2005), *Cultural Autonomy, Minority Rights and Globalisation*, Burlington: Ashgate Publishing.

Robinson, Nehemiah (1960), *The Genocide Convention: A Commentary*, New York: Institute of Jewish Affairs, World Jewish Congress.

Rose, R. (1995), *New Baltic Barometer II: A Survey Study, Studies in Public Policy No. 251*, Glasgow: University of Strathclyde.
Rothwell, Victor H. (1971), *British War Aims and Peace Diplomacy*, Oxford: Clarendon Press.

Sasse, Gwendolyn (2005), "EU Conditionality and Minority Rights: Translating the Copenhagen Criterion into Policy", *EUI Working Papers,* 16: 1-21.

Scherrer, Christian P. (2003), *Ethnicity, Nationalism and Violence*, Aldershot: Ashgate Publishing.

Schimmelfennig, Frank and Ulrich Sedelmeier (2005), *The Europeanisation of Central and Eastern Europe*, Ithaca: Cornell University Press.

Schmimmelfennig, Frank and Guido Schwellnus (2006), "Political Conditionality and Convergence: The EU's Impact on Democracy, Human Rights and Minority Protection in Central and Eastern Europe", 1-29, 23 May, URL: http://www.ceeisaconf.ut.ee/orb.aw/class=file/action=preview/id=164447/Schimmelfennig_Schwellnus.pdf.

Schopflin, George (2003), "Identities, Politics and Post-Communism in Central Europe", *Nations and Nationalism*, 9: 488.

Simane, M. and N. Muiznieks (2005), *UNDP Latvia 1992-2005: Easing the Transition*, Riga: UNDP.

Smith, David J. (2003), "Minority Rights, Muliculturalism and EU Enlargement: the Case of Estonia",*Journal on Ethnopolitics and Minority Issues in Europe*, 1: 1-39.

Smith, David James (2005), *The Baltic States and Their Region New Europe or Old?* Amsterdam: Rodopi.

Smith, G. (1996), "The Ethnic Democracy Thesis and the Citizenship Question in Estonia and Latvia", *Nationalities Papers*, 24: 199-216.

Smith, G. (1996), *The Baltic States: The National Self-determination of Estonia, Latvia and Lithuania*, St. Martin's Press: New York.

Smith, Paul (1991), *Minorities in the System of the League of Nations*, New York: New York University Press.

Snyder, T. (2003), *The Reconstruction of Nations: Poland, Ukraine, Belarus 1569-1999*, New Haven and London: Yale University Press.

Swimelar, Safia and Jennie Schneider (2004), "Evaluating the Minority Rights Regime in the Context of European Enlargement", *allacademic research online* journal, [Online: web] Accessed 12 June 2008, URL: http://www.allacademic.com//meta/p_mla_apa_research_citation/0/7/3/1/9/pages73195/p73195-1.php

Taagepera, R. (1993) , Estonia: Return to Independence, Boulder: Westview Press.

Tesser, Lynn M. (2003), "The Geopolitics of Tolerance: Minority Rights Under EU Expansion in East-Central Europe", *East European Politics and Societies*, 17: 483-532.

Thio, Li-ann (2005), *Managing Babel: The International Legal Protection of Minorities in the Twentieth Century*, Boston: Martinus Nijhojhoff Publishers.

Thornberry, Patrick (2004), *Minority rights in Europe: A review of the Works and Standards of the Council of Europe*, Strasbourg: Council of Europe Publishing.

Thornberry, Patrick and Maria Amor Martin Estebanez (2004), *Minority rights in Europe: a review of the work and standards of the Council of Europe*, Strasbourg: Council of Europe Publication.

Toggenburg, G (2000), A Rough Orientation through a Delicate Relationship: The European Union's Endeavours for (its) Minorities, *European Integration Online Papers*, 4(16): 1-30, 30 May, URL: http://eiop.or.at/eiop/pdf/2000-016.pdf.

Toggenburg, G. (2003), EU-minorities and their languages in 2004! What should the EU agenda look like?", Contact Bulletin, 19(3), URL: http:// www.eblul.org/mep-mai2003-en.pdf.

Toggenburg, Gabriel N. (2003), "Minorities (...) The European Union: Is The Missing Link An "Of" Or A "Within"?, *European Integration*, 25(3): 273-284.

Tomusk, I. (2004), "Debates Over Local Government Language Use in Narva and Sillamae", *Oiguskeel*, 10: 19-27.

Toynbee, Arnold (1922), *The Western Question in Greece and Turkey: A Study in the Contact of Civilizations*, London: Constable and Company, Ltd.

United States, Department of State, Division of European Affairs (1943) "*National Socialism: Basic Principles, Their Application by the Nazi Party's Foreign Organisation and the Use of Germans Abroad for Nazi Aims*", Washington, D.C.: US Government Printing Office.

Vachudova, Milada Anna (2001), "The Leverage of International Institutions on Democratizing States: Eastern Europe and the European Union", *European University Institute Working Papers*, 33:1-42, 27 June, URL: http://www.iue.it/RSCAS/WP-Texts/01_33.pdf.

Vachudova, Milada Anna (2004), *Europe Undivided, Democracy, Leverage and Integration after Communism*, Oxford: Oxford University Press.

Vaitiekus, S. (1998), *Gypsies*, Vilnius : Tyto Alba.

Van der Stoel, M. (1993), "Letter to Trivmi Velliste, Minister of Foreign Affairs, Republic of Estonia", 5 July, URL: http://www.osce.org/documents/hcnm/1993/04/2728_en.pdf.

Van Elsuwege, Peter (2002), "The Baltic States on the Road to EU Accession", *European Foreign Affairs*, 7(2): 171-192.

Vermeersch, Peter (2007), "A Minority at the Border: EU Enlargement and the Ukrainian Minority in Poland", *East European Politics and Societies*, 21: 475-502.

Viktorova, Jevgenia (2006), Transformation or Escalation? The Estonian-Russian Border Conflict and European Integration, *EU Border Conflict Studies Working Paper Series*, 21: 1-23, 13 July, URL : http://www.euborderconf.bham.ac.uk/publications/files/WP21Estonia.pdf.

Wilson, Duncan (2002), Minority Rights in Education, Right to Education Project, 27 June, URL: http://www.right-to-education.org/content/lessons/roul_ww.pdf.

World Directory of Minorities (2008), "Eastern Europe", 1 July, URL: http://www.faqs.org/minorities/Eastern-Europe/Eastern-Europe.html.

Zaagman, R.(1999), "Conflict Prevention in the Baltic States: The OSCE High Commissioner on National Minorities in Estonia, Latvia and Lithuania", Working Paper, Monograph Series no. 1, Flensburg: European Centre for Minority Issues.

Zielonka, Jan and Alex Pravda (2001), *Democratic Consolidation in Eastern Europe, Volume 2, International and Transnational Factors*, Oxford: Oxford University Press.

****