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# Accommodating minority groups: the politics of minorities' protection in Italy

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**Abstract**

Countries' reasons to institutionalize minorities' accommodation vary significantly. In some places, minority accommodation is based on historical arrangements, such as the accommodation of linguistic minorities in Belgium and Canada. Sometimes, group rights are acknowledged in order to correct past injustices, (as the arguments for the rights of indigenous peoples). Sometimes, identity claims can be present. Catalonia and Scotland have each made arguments for more autonomy in order to preserve their identity. Colonialism has also an influence on the development of group rights and their protection. Occasionally accommodation of minorities is a result of extending rights to communities of new immigrants, or immigrants whose freedoms were previously restricted ('new minorities'), such as Sikhs or Muslims, the established values of tolerance and individual rights which have been enjoyed by the mainstream within the state. Extending rights to these new groups has given rise to new and unanticipated challenges to the traditional liberal concepts of freedom of association and freedom of religion. This paper attempts to give an analysis of the Italian 'promotional' model of minorities' accommodation, as a paradigm one. Italy has progressively and distinctively different legal order distinguishing it from the liberal and the French 'civic' settings. Through the years and the republican experience, the Italian legal order has developed in a rich and complex instrument in regards to the juridical treatment of differences, making a sophisticated model studied even abroad (Palermo and Woelk, 2011: 282). It analyses the politics and legal framework of the Italian state in terms of minorities' recognition and protection and promotion of their rights. By presenting the three distinctions under the constitutional order of the state – extra-protected minorities, eventually protected minorities and not-recognized minorities (unprotected) – the paper focuses on the first group and shifts the debate to their self-government rights.

**Key words:** minorities, Italy, group-differentiated rights, self-government rights, regionalism

## Introduction

The countries' reasons for institutionalizing the rights of minority groups and accommodating the demands of the minority groups vary significantly. Sometimes, the states take as a basic ground the historical arrangements, such as the case of the linguistic minorities in Belgium and Canada. Other arrangements acknowledge group rights in order to correct past injustices, (as the arguments for the rights of indigenous peoples). At times, there are identity claims present along with firm arguments for more autonomy in order to preserve the identity. Colonialism has also an influence on the development of group rights and their protection. We can also witnessed that the rights of the so called 'new minorities' (immigrants) are also discussed, accommodated and extended also to these types of groups (Sikhs or Muslims, for example in the UK). Extending rights to these new groups has given rise to new and unanticipated challenges to the traditional liberal concepts of freedom of association and freedom of religion.

When it comes to the discourse on multicultural society and the concept of cultural diversity, an important element for analysis is the equality. This article takes its foundations on the ground that to interpret equality in relation to cultural diversity is to suggest that minority accommodation allows minority groups to receive the kind of cultural support that majority groups receive "free" (Parakh 2000, Kymlicka 199, Young, 1990). Equality is also the central value involved when the discussion turns to language and cultural rights. Linguistic minorities enjoy linguistic protection in a variety of jurisdictions in the world and these protections usually mean that the minority's language exists as the official language in a particular province or region of the country. The equality argument is a relatively recent addition to the arguments for toleration; it appears in the jurisprudence concerning religious freedom only in the twentieth century, and has been developed as a principle argument within political philosophy only in the last decade.

According to one doctrine[i], there are at least four fundamental ideological models that determine the overall attitude towards arrangements of cultural differences (Marko, 1997). It is clear that these models are abstract and ideal, legislative and administrative practice and case law show quite clearly how the reality and the historical experience tend to combine elements of different models, because of different circumstances and different parameters of the adopted decisions. Four fundamental classifications can be identified: 1) nationalistic repressive model; 2)"agnostic" liberal model; 3) 'promotional' model; and 4) multinational model. This paper illustrates the characteristics of the Italian 'promotional' model of accommodating and arranging cultural and linguistic differences.

**Individual, collective/group or group-differentiated rights for minority groups?**

While minority rights are acknowledged as human rights in many international instruments, the relationship between the individual member of the minority group, the collectively and the State, respectively, is often explored only in part[ii]. One could argue that minority rights cannot be human rights except to the extent that they are a specialised regime for persons belonging to minority groups. If it were truly a minority rights regime, then it is not, by definition, human rights: human rights attach to individuals, whereas minority rights ought to attach to the minority *qua* minority group[iii]. In the Article 27 of the International Covenant on Civil and Political Rights, the protection is given to persons belonging to minority groups emphasising the individual rights of minority members not the right of the minority group as group right. Some rights that this article protects are also guaranteed to all individuals (not necessary members of a minority group) in other international legal instruments, for instance the freedom of religion, the freedom of expression, the rights to education and freedom of association. Parker sees minority rights as shorthand for human rights that are of particular relevance to persons belonging to minority groups who wish to preserve their own identity (Packer 1996). Furthermore, what Geoff Gilbert points out is that 'the most complex issue is how the individual, the minority group and the State interact'. The interaction precedes analysis of the rights, duties and obligations of the State with respect to the individual and the minority group (Geoff 2005).

There are two perspectives when it comes to individual vs. group rights discourse. In the group (collective) rights discourse, the State has both duties towards the minority group and the individual. The persons belonging to the minority group have a relationship with the State and with the minority group. The minority group then again, can make demands of the individual in the cause of preserving the minority identity. Under international instruments, the state owes duties to persons belonging to minority groups as individuals within the jurisdiction of the State and as members of the minority; and in addition having obligations to the minority group *qua* minority. And as Geoff points out, only the individual persons belonging to a minority group have rights. And since a belonging to a minority group is a matter of individual choice (freedom of association)[iv], whenever there is a conflict of interest between the minority group and the individual the State should prefer the individual over the minority. Thornberry noted that this position is not necessarily that simple in practice; the protection of the group (through Article 27) can only ever be derivative of a benefit to persons belonging to the minority group[v].

The State, has a dual role: regulating the relationship between the individual persons belonging to the minority group and the group and of guaranteeing rights to the individual members

of the group and to the group. The minimum of the latter case is to have a right to recognition and a right to no arbitrary removal of pre-existing rights. Finding the right balance in regulating the relationship is the most difficult task. Special minority rights developed to assure equality of rights and opportunities. There rights should enable individuals and groups to realise their guaranteed constitutional rights. Rights of minorities have dual nature – they are at the same time both collective and individual rights. If we analyse rights of ethnic minorities and their complexity, we can discover that as collective rights they belong to ethnic minorities as distinct communities, and as individual rights they belong to every member of a certain ethnic minority.[vi] The concept of collective rights is becoming more acceptable, but most official legal documents perceive minority rights as individual rights of members of certain distinct ethnic communities[vii]. There are state constitutions that explicitly define rights of minorities also as collective rights of these distinct ethnic communities.[viii]

A group right should not be identified with a 'group-differentiated' right. The term 'group-differentiated rights' is occasionally abbreviated to 'group right', however group-differentiated right may or may not be a group right in the ordinary sense (a right possessed by the group qua group rather than by its members separately). The group-differentiated rights proposed by Kymlicka are designed to protect cultural as well as political interests and in order to determine which ethnocultural groups merit which rights. There are *at least* three forms of group-specific/differentiated rights according to Kymlicka[ix]: 1) self-government rights; 2) polyethnic rights; and 3) special representation rights. (Kymlicka 1995: 27). *Self-government rights* refer to the situation when there is a demand for some form of political autonomy or territorial jurisdiction, ensuring development of the different cultures and interests in a multinational state. Rights to self-government typically involve devolution of power to territorially concentrated ethnocultural groups. Federalism is one mechanism for recognizing claims to self-government, which divides powers between the central government and regional subunits (provinces/states/cantons). Self-government claims for Levy, are the most visible of cultural rights-claims and among the most widespread. These claims (in form of political units with others in a confederation, or cantons, states, or provinces in a federal system or fully dependent) should not be ruled by aliens, they better have drawn borders and institutions well arranged to allow the group political freedom from domination by other groups (Levy 1997). The claims for self-government, usually take the form of devolving political power to a political unit controlled by the members of the national minority, and significantly corresponding to their historical homeland or territory, not seen as temporary measures, there are often seen as 'inherent', and so permanent (Kymlicka 1995).

## Legal instruments for minority rights protection in Italy

Palermo and Woelk identify the Italian model for minority rights' protection as a paradigmexample of a 'promotional' model of minorities' accommodation (Palermo and Woelk, 2011 p. 281).. Italy has progressively and distinctively developed different legal order distinguishing it from the liberal and the French 'civic' settings. Through the years the Italian legal order has developed in a rich and complex instrument in regards to the juridical treatment of differences.

In Italy, there are many minority groups living together divided into at least 12 different language groups, rather different from each other in the number and level of protection granted to them by the legal system. There are about 2.5 million (around 4.5% of the population) [x], , making Italy one of the European countries with the highest number of indigenous minorities. Despite the significant presence of non-native groups from the unification, the question of minority was raised only after World War II, following the annexation of South Tyrol by Italy, which led to the formation of two numerically substantial national minorities. Only after the fall of the Fascist regime, however, the protection of minorities became one of the main objectives of the new democratic state born of the ashes of World War II (section 6 of the Constitution). The Constitution uses exclusively as a distinctive feature of minorities the linguistic criteria, ideological choice for the original base membership to the Italian State (and then to the Italian nation, since the state is characterized typically as by the French model) on the objective criterion of citizenship and thus a conception of civic and not ethnic belonging. Despite the adjective "ethnic" appearing here and there in some regional statutes (Trentino-Alto Adige, Friuli-Venezia Giulia), the intention was in fact to clearly circumscribe the sense of protection minorities on a linguistic and cultural factor, eliminating references to political-national and ethnic-racial issues. The term "ethnicity", therefore, has no legal significance in Italy, unlike other systems that are based on different settings. Italy is therefore today a nation-demos that recognizes different *ethnoi,* with promotional features -as a nation connotes linguistically plural community.

### *Minorities' protection at state level*

As stated, the protection of the minorities is founded by the linguistic criteria; however it does not imply a uniform protection of all linguistic minorities, or protection of all linguistic minorities. The promotional instrument for their protection is extremely differentiated. Until the approbation of the law on linguistic historic minorities' protection of 1999, the distinction was

made between recognized and not-recognized linguistic minorities; after the approval of this law, the differentiation is made according to the level of protection since it recognizes all the historic linguistic minorities in the territory. In doctrine (Palice di Suni, 1999), the following distinction is made:

1. *Extra-protected minorities* – the most protected minority groups in the special autonomous regions in the alpine area (Trentino-South Tyrol, Friuli Venezia Girulia, Val d'Aosta) and within those they are diverse in the intensity and modality of protection;
2. *Minorities eventually protected* (those listed in the law of 1999, whose different level of protection depends on whether the various instruments provided by law are activated or not);
3. *Not recognized minorities (and unprotected),* or groups which, while in possession of the subjective requirement of the request for recognition as a distinct group, do not fulfil the objective requirement of recognition, and, therefore, are legally irrelevant to the differential treatment (Sinti and Roma people[xi], but the same goes for immigrant minorities).

The protection of minorities in the Italian legal system is thus based on very different degrees of protection and regulation of a marked territorial symmetry, asymmetry of which is in part the origin and partly the consequence. To understand the recognition and protection of minorities guaranteed by the Italian constitutional order, there must first be kept in mind the fundamental distinction between linguistic minorities and other minorities. To the former, the constitution devotes a special provision - Article 6[xii] -, while for the later, it is not specifically mentioned the term "minorities", the protection can be found in other fundamental rights and standards (e.g., religious minorities are protected according to articles 8[xiii] , 19[xiv] and 20[xv], the minorities' policies are generally protected through various freedoms, such as that of expression, association, formation of political parties), in addition to the general prohibition of discrimination based on gender, race, language, religion, political opinions, personal and social conditions (Article 3 paragraph 1)[xvi]. Based on the pluralistic principles which underpins the republican system, the Constitution requires the development of all social formations in which there is the personality of man (Art. 2)[xvii], including linguistic minorities, which are therefore deserving of constitutional protection primarily as social formations, then according to the principle of substantive equality, because of the same fact that they are linguistic minorities. The enforceability of the rights of minorities protected area is subject to the criterion: a person belonging to a linguistic minority can rise from a series of legal situations only being tied to a specific territory associated with protecting minority rights, precisely because he recognized in principle to a given area prior to the individuals living there (territorial principle) are generally not of a personal nature. In general, also (with the exception of the Autonomous Province of Bolzano) belonging to minorities is not established

officially, and is still based (even in the Province of Bolzano) on the mere will of each individual that claimed in line with the general principle affirmed by the Framework Convention for the protection of national minorities (Art. 3)[xviii]. Should be noted as well that the arrangement of Art. 6 of the Constitution does not specify whether the protection should be implemented through a minority law (applied for all minority groups) or through different measures for each of the minorities to be protected. In Italy the difference in treatment of various minorities is of particular intensity. A profile of particular interest focused on the key constitutional question of the immediate applicability of Art. 6, given the continued absence, for half a century, a general standard for implementation of the constitutional principles concerning the protection of minorities. For a long time, the special rules laid down by Art. 6 came to fruition only in the statutes of certain special region (in particular, Trentino-Alto Adige/South Tyrol, Valle d'Aosta and Friuli Venezia Giulia, and their respective implementing rules) and in the few regional laws approved since the seventies of last century.

Italy has long been characterized to be at the same time one of the most advanced systems in the protection of (some) minorities[xix] (as well as legal instruments for the economic efforts employed) and a State which tended to assimilate other minority groups. After several failed attempts in previous legislatures, it was approved the law for the protection of historical linguistic minorities (Law n.482/1999). This law stands as explicit implementation of the constitutional Art. 6 and the general principles established by the European and international legal standards; it identifies the criterion for recognition (must be of historical linguistic minorities) and lists the groups recognized, with an exhaustive list of types. Under the Art. 2 "The Republic protects the language and culture of the Albanian, Catalan, Germanic Greek, Slovenian and Croatian peoples and those speaking French, Franco-Provençal, Friulian, Ladin, Occitan and Sardinian". According to some Italian constitutional scholars, this formulation is heterogeneous with respect to the Italian constitutional tradition, as it seems to make a distinction between "ethnic" and "language", including Albanian, Catalan, Germanic, Greek, Slovenian and Croatian, and those speaking French, Franco-Provençal, Friulian, Ladin, Occitan and Sardinian. (Palermo and Woelk 2011: 288). The question is " *where to draw the line distinguishing between the two categories? Perhaps not all minority cultures are equally part of the cultural heritage of the composite Italian "nation"*?" (Palermo and Woelk 2011: 288).

The law provides a series of linguistic and cultural rights in favour of minority groups subject to protection. With reference to public use of the language, the law provides for the possibility of using the language protected in the collective bodies of local authorities concerned, with the right translation in Italian for those claiming not to know the minority language. The law

also provides for municipalities to adopt, in addition to official place names, even those "in accordance with traditions and local customs" as well as the right for citizens whose real last name were Italianized to obtain the same in the original form. Ultimately, as Palermo and Woelk point out, the law reaffirms the three fundamental pillars on which the constitution for minorities is laid on: 1) the language criterion as an element identifier; 2) the need for recognition and; 3) the anchoring of territorial rights recognized (Palermo and Woelk 2011: 290).

### *Minorities' Protection at Regional Level*

In the current regional structure of the Italian State two types of regions are at existence: those of special statute (five) and the remaining (fifteen) of ordinary status. Those of special status are governed by constitutional law and represent those for which – due to economic, cultural, linguistic, geographical reasons or international obligations – the notion of autonomy had taken form prior to the approval of the Italian Constitution on 22nd of December 1947. The Statutes of these regions were drawn up in early 1948, with the exception of Friuli Venezia Giulia (whose Constitution was not approved until 1963). On the other hand, the statutes of the remaining fifteen regions were not drawn up until 1970. In accordance with the Italian Constitution, the ordinary regions are granted legislative and administrative powers in specific matters outlined in Art. 117 and 118, as well as financial autonomy within limits established by national law.[xx] The Constitution, in addition to the regions, outlines two additional levels of government: the provinces and the municipalities.[xxi] The Regional Autonomy Statute is the basic law of each region. In order to increase the level of security for the special arrangements, the national Constitution provides that the autonomy statutes of the special regions must be adopted by the national parliament with a constitutional law (Art. 116 para. 1).

In addition to the regional statutes (and special) and the General Act of 1999, there are few ordinary laws of the State to recognize and guarantee a set number of minority language rights. Among these, could be mentioned, the provisions of the Code of Civil Procedure (Rule 122 c.1) and of criminal procedure (Article 109 para.2) that recognize the right to work in the process of a language other than Italian with the intervention of an interpreter, the rules providing for the recognition of the political representation of (some) minorities in the European Parliament, the possibility of setting up schools with teaching language other than Italian (German, French and Slovenian), special rules for the broadcasting sector (in the same languages, etc.). However, these provisions do not recognize rights generalized but take note of the situation of regional

diversification sanctioned by the statutes and - above all - the socio-political realities of the various minorities and are often limited to certain minorities to recognize that these rights were still already received by way of fact. State laws do not cover some of the regulatory framework regarding minorities. In a predominantly territorial protection settings as in the Italian case the autonomy of the areas where minorities are located is one of the most powerful tools of protection: the greater the power of self-government of sub-state bodies, the easier it will be minorities in its territory who get adequate recognition and protection. It is clear that, within a given territory, minority groups that are numerically negligible compared to the national population becomes numerically more significant, if not majorities. It is no coincidence that the specialty of at least three of the five special statute regions, with a greater degree of autonomy guaranteed and most of the other is due to the presence in those areas of significant linguistic minorities, whose effective protection is directly proportional recognized the power of self-government to the regions in question.

The fact that there is an extensive regional legislation aimed at protecting and promoting minorities must not, however, does not mean that there is a regional competence, but simply shows that the minorities' protection is a general objective; a field without an explicit competence. Ultimately, minorities' protection can be responsibility on regional (provincial in the case of the autonomous provinces) level.

In regards to the extra-protected minorities in Italy, it can be said that it considers the language groups that enjoy the protection of the most intense (in terms of the guarantee) and extended (in material terms) level, settled in the special regions of the Alps (Trentino-Alto Adige, Valle d'Aosta, Friuli-Venezia Giulia). These groups are, in numerical terms, the vast majority of non-native populations present in Italy, and for a long time, represented the only protected linguistic minority groups. The more complex situation (due to the presence of three language groups) but also because of the institutional reality, is that most advanced protection in the region of Trentino-Alto Adige/South Tyrol in general and the Autonomous Province of Bolzano in particular. The minority that enjoys high protection in Italy are in fact the German-speaking groups in South Tyrol, having the basis of their protection legally in an international treaty[xxii].

It is worth mentioning as well the condition of the minorities who are not recognized by the 1999 Act, and therefore not protected. These are groups that, while in possession of the subjective requirement for recognition as a distinct group, do not have the objective requirement of recognition by the law, and are therefore legally irrelevant to the differentiated treatment. They are therefore without forms of collective protection, but only with the individual guarantees of the principle of non-discrimination and "the inviolable rights of man, as an individual and in social groups where human personality" (Article 2 of the Constitution). The Roma and Sinti communities are excluded

from the list of recognized historical minorities and therefore cannot enjoy any of the minority rights under the Law of 1999. There are different regional laws regarding Roma and Sinti communities, and providing for limited forms of recognition of rights and public bodies to deal with their problems, thus providing a legislative recognition of these populations such as minority groups at least according to regional legislation.[xxiii]

Despite its complex regulatory changes and case law, the protection of minorities in Italy has always maintained and continues to maintain the characteristics of a highly asymmetric arrangement, in terms of legal sources and in the intensity of protection. Even in the context of an overall arrangement of promotional tools for the differential juridical treatment, different groups differ greatly by the recognized rights and their effectiveness and level of assurance. A different treatment of groups must be constitutionally justified, based on the same principle of equality, which requires, of course, treating different situations differently.

**Conclusions**

As a conclusion, some theoretical reflections should be pointed out in terms of the tolerance and equality discourse.

*"The foundations of inequality lie less in property than in human diversity, or in the human tendency to differentiate themselves from some while associating with others to form groups*" (Kukathas 2003). Kukathas suggestions is that we should "*abandon equality as an aim because the suppression of diversity brings with it problems of its own, and, in the end, does not bring about equality but simply creates different inequalities*". Baker, defends principles of equality[xxiv] which include principles of satisfaction of basic needs, equal respect, economic equality, political equality, and sexual, racial, ethnic, and religious equality (Baker et al. 2004).

The state should treat all of its citizens with equal respect and consideration. For national minorities, the conception of equality concern equal access to one's societal culture. Without group-differentiated rights, the societal cultures of *national minorities* are vulnerable to economic and political decisions by the majority. Kymlicka indicates that the majority cannot justifiably demand that national minorities give up their culture and assimilate into the majority society, not only because of the deep bonds they have to their own culture, but also because national minorities were not voluntarily incorporated into the state[xxv]. A national minority, as much as the majority society, has a right to preserve the societal culture that it never relinquished and that is essential for its attainment of the good life.

On the other hand, according to Taylor, when one country is found in a contact with other culture(s), it has to welcome the culture(s) as an equal; however the culture(s) coming into the country cannot claim equality (Taylor et al. 1994). When minorities claim to be treated equal it is a form of disrespect. Living together with other cultures gives a grounded opinion about the other culture as it takes some time to understand and respect other cultures. Nevertheless, it is hardly possible the case where different cultures will see each other as equal, and according to Barry they do not have to, as equality is not a necessary condition when treating citizens' rights, since there is something like 'tolerance' that treats people equal but does not see all as equal. He agrees that "at the core of liberalism is the idea of toleration"[xxvi] (Barry 2001). Parekh perceives that sometimes we know that is relevant in a given context to treat people equally, but we find difficult to decide if two individuals are equal in relation to it (Parakh 2000).

In the case of Italy, as we have seen, the principle of equality is de-fragmented; the political system is divided in terms of different applied solutions, mainly because of the historical legal instruments and facts on the different territories within the state. One can conclude that under the auspices of the Italian state different linguistic and cultural groups are treated differently and this is a form of discrimination, however when applying the principle of equality in a multicultural society, equal treatments is likely to involve different or differential treatment, raising the question as to how we can ensure that the latter does not amount to discrimination or privilege; and there is no easy answer.

[i] See Marko, J. 1997. *Equality and Difference: Political and Legal Aspects of Ethnic Group Relations* and Toniatti, R.1994. *Minoranze e minoranze protette. Modelli costituzionali comparati*, cited in (Palermo and Woelk, 2011).

[ii] Will Kymlicka points out that the minority rights cannot be subsumed under the category of human rights. "Traditional human rights standards are simple unable to resolve some of the most important and controversial questions relating to cultural minorities which languages should be recognized in the parliaments, bureaucracies, and courts?" The problem according to him is that traditional human rights doctrines often give no answer at all to the questions such as the previous one or on whether should ethnic or national group have publicly funded education in its mother tongue; should internal boundaries be drawn so that cultural minorities form a majority within a local region; should political offices be distributed in accordance with a principle of national or ethnic proportionality or what are the responsibilities of minorities to integrate? See in Kymlicka, Will (1995), *Multicultural citizenship. A liberal theory of minority rights*, Oxford: Clarendon Press, 1995 at p. 5

[iii] See M. Freeman, 'Are there Collective Human Rights?', 43 *Political Studies* Special Issue (1995) p. 25; J. Donnelly, 'Human Rights, Individual Rights and Collective Rights' in J. Berting *et al*. (eds.) *Human Rights in a Pluralist World* (Westport CT: Meckler 1990).

[iv] Self-identification is an essential aspect of being a member of a minority. Persons belonging to minority groups also have the right to leave the group without fearing that the State will continue to label them as members thereof. Membership of a designated minority or indigenous community may be determined by three approaches: 1) reliance on objective or factual criteria; 2) self-identification; and 3) acceptance by other

group members. See Hadden, Tom. 2005. Integration and Separation: Legal and Political Choices. [ed.] Nazila Ghanea and Alexandra Xanthaki. *Minorities, Peoples and Self-Determination. Essays in Honour of Patrick Thornberry.* Leiden/Boston : Martinus Nijhoff Publishers, at 179

[v] See P. Thornberry, 'The UN Declaration: Background, Analysis and Observations' in A. Phillips and A. Rosas, *The UN Minority Rights Declaration* (Turku/Åbo: London, Åbo Akademi University Institute for Human Rights/Minority Rights Group International, 1993) p. 22, cited in Geoff, Gilbert. 2005. Individuals, Collectivities and Rights. [ed.] Nazila Ghanea and Alexandra Xanthaki. *Minorities, Peoples and Self-Determination. Essays in Honour of Patrick Thornberry.* Leiden; Boston : Martinus Nijhoff Publishers, at 149.

[vi] The rights of education in minorities' language is a collective rights when establishing an autonomous educational system and programmes, and individual by giving the possibility to attend a bi-lingual school or educational program in the language of a certain minority to individual members of this minority.

[vii] E.g. The Declaration on the Rights of Persons Belonging to National, Ethnic, Religious and Linguistic Minorities

[viii] The Constitution of the Republic of Slovenia for example in Article 65 defines the rights of traditional ethnic minorities as collective and individual rights of autochthonous ethnic communities and their members. See Žagar, Matja (1997) "Rights of Ethnic Minorities: Individual and/or Collective Rights? ". *Journal of International Relations* 4 (1-4), 29-48

[ix] Will Kymlicka develops an extended defence of the rights of ethnocultural groups based on the foundational values and ideals of liberal democracy. He shows that rights that promote the preservation of cultural traditions and that ensure self-governance for cultural minorities are not only compatible with principles of liberalism, but actually promote liberal ideals of freedom and equality.

[x] See ASTAT: Statistic Yearbook 2011, p.118, at http://www.provinz.bz.it/astat/it/default.asp

[xi] Usually named by the generic term "Roma".

[xii] Article 6 - "The Republic safeguards linguistic minorities by means of appropriate measures."

[xiii] Article 8 - "All religious denominations are equally free before the law. Denominations other than Catholicism have the right to self-organisation according to their own statutes, provided these do not conflict with Italian law. Their relations with the State are regulated by law, based on agreements with their respective representatives."

[xiv] Article 19 - "Anyone is entitled to freely profess their religious belief in any form, individually or with others, and to promote them and celebrate rites in public or in private, provided they are not offensive to public morality."

[xv] Article 20 - "No special limitation or tax burden may be imposed on the establishment, legal capacity or activities of any organisation on the ground of its religious nature or its religious or confessional aims."

[xvi] Article 3 para. 1 - "All citizens have equal social dignity and are equal before the law, without distinction of sex, race, language, religion, political opinion, personal and social conditions."

[xvii] Article 2 - "The Republic recognises and guarantees the inviolable rights of the person, both as an individual and in the social groups where human personality is expressed. The Republic expects that the fundamental duties of political, economic and social solidarity be fulfilled."

[xviii] See *Framework Convention for the Protection of National Minorities.* Retrieved from Council of Europe Conventions: http://conventions.coe.int/Treaty/en/Treaties/Html/157.htm

[xix] For more on the Italian constitutional framework protecting minority rights consult the work of Prof. Francesco Palermo, constitutional scholar, director of the Institute of Federalism and Regionalism EURAC, Bolzano and at the moment Senator in the Italian Parliament.

[xx] As to finances, each special region has a different agreement with the state, mostly regulated in its respective regional autonomy statute. In general, all financial arrangements are very generous towards the special regions compared to the others. In particular, the Aosta Valley, Trentino and South Tyrol are practically excluded from the nationwide grants-in-aid system, meaning that they receive back from the state almost all the revenues directly or indirectly collected in their own territory

[xxi] The Provinces, whose role is generally inferior to that of the regions represent the third level: their importance has decreased since the 1970s, when both regional and local empowerment were carried out at their expense. There are also the municipalities, whose status as the closest level of government to the people has made them in core of Italian local government.

[xxii] With the Treaty of St. Germain-en-Laye, the German-speaking region was officially signed over to Italy. After the WWII, the borders were reconfirmed in the Peace Treaty signed with Italy on 10th of February

1947, and South Tyrol was ensured autonomy by the Gruber – De Gasperi Agreement, signed on 5th September 1946.

[xxiii] For example the Regional law Friuli Venezia Giulia n. 11/1988.

[xxiv] Basic equality is the cornerstone of all egalitarian thinking: the idea that at some very basic level all human beings have equal worth and importance, and are therefore equally worthy of concern and respect. *See* (Baker, et al., 2004)

[xxv] Unlike immigrants who voluntarily left their home countries to integrate into a new society, national minorities lived in their own self-governing communities with their own socioeconomic and political institutions before their involuntary incorporation into their respective states.

[xxvi] '*In a liberal settlement among groups with different ways of life, the illiberal groups which are tolerated are illiberal precisely because they are intolerant'*. See Chandran Kukathas (1997) 'Cultural Toleration', in Shapiro and Kymlicka, eds, *Ethnicity and Group Rights*, p.99. Kukatas belives that '*toleration is important, in part, because it checks or counters moral certitude*'.

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## References


ASTAT (2011) *Statistic Yearbook.* Bolzano: Province of Bolzano.

Baker J, Lynch K, Cantillon S and Walsh J (2004) *Equality: from theory to action*. New York: Palgrave Macmillan.

Barry B (2001) *Culture and equality: and egalitarian critique of multiculturalism*. Cambridge: Harvard Univeristy Press.

Council of Europe (1995) *Framework Convention for the Protection of National Minorities.* Available at: http://conventions.coe.int/Treaty/en/Treaties/Html/157.htm [Accessed February 2013].

*Constitution of the Italian Republic.* Senato della Repubblica. Available at: http://www.senato.it/documenti/repository/istituzione/costituzione_inglese.pdf. [Accessed February 2013]

Geoff G (2005) Individuals, Collectivities and Rights. In N. Ghanea, and A. Xanthaki, eds., *Minorities, Peoples and Self-Determination. Essays in Honour of Patrick Thornberry* Leiden; Boston: Martinus Nijhoff Publishers, pp. 139-162.

*Gruber-De Gasperi Agreement.* 05/09/1946

Hadden T (2005) Integration and Separation: Legal and Political Choices. In Ghanea N and Xanthaki A (eds.) *Minorities, Peoples and Self-Determination. Essays in Honour of Patrick Thornberry* Leiden/Boston: Martinus Nijhoff Publishers, pp. 173-192.

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

*Law n. 482 - Norms for historical linguistic minorities protection.* 15/12/1999

Levy JT (1997) Classifying Cultural Rights. In Shapiro I and Kymlicka W(eds.) *Ethnicity and Group Rights* New York and London: New York University Press, pp. 22-66.

Packer J (1996) On the Content of Minority Rights. In Räikkä J (ed.) *Do We Need Minority Rights?* Dordrecht: Kluwer Law International.

Palermo F and Woelk J (2011) *Diritto Costituzionale comparato dei gruppi e delle minoranze [Comparative Constitutional Law of groups and minorities]* (2nd edition). Milano: CEDAM.

Palici di Suni E (1999) *Intorno alle minoranze [Around minorities]*. Turin: Giappichelli Editore

Parakh B (2000) *Rethinking Multiculturalism. Cultural Diversity and Political Theory*. London: Macmillan Press Ltd.

Parakh B (2000) *Rethinking Multiculturalism. Cultural Diversity and Political Theory*. London: Macmillan Press Ltd.

*Regional Law n. 7 - Reform of the local self-government.* 22/12/2004

Shapiro I and Kymlicka W (eds.) (1997) *Ethnicity and Group Right*s. New York and London: New York University Press.

*Special Statute for Trentino-Alto Adige: Modified text of the Constituion of the Trentino-Alto Adige Region and the Provinces of Trento and Bolzano.* Province of Bolzano. Available at: http://www.provincia.bz.it/downloads/autonomy_statute_eng.pdf. [Accessed February 2013]

Taylor C, Appiah KA, Habermas J, Rockefeller SC, Walzer M and Wolf S (1994) *Multiculturalism: examining the politics of recognition*. (A. Gutmann, Ed.) Princeton: Princeton University Press.

Young IM (1990) *Justice and the politics of difference*. Princeton: Princeton University Press.

UN (1966) *International Covenant on Civil and Political Rights.* UN High Commissioner for Human Rights. Available at: http://www2.ohchr.org/english/law/ccpr.htm. [Accessed February 2013]