

MINORITY PROTECTION AND AUTONOMY UNDER INTERNATIONAL AND COMPARATIVE LAW

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1. STATE AND NATIONS: NATION-BUILDING, NATION-DESTROYING AND THE NEED FOR TWO LAYERS OF NATIONS.

Most states are multi-cultural or multi-ethnic in composition, and in many societies this has caused serious conflicts. What is at stake is to achieve a satisfactory social and ethnic contract among all groups in society. Many nations have struggled with it, in some cases going through violent conflicts and in others finding peaceful accommodation through reciprocal good will. The world order envisaged by the United Nations Charter envisages the emergence of a civic world composed of civic national societies. It has to be noted that international law is still underdeveloped in this respect, but a process is taking place which will be explored in this lecture.

We now have to introduce the distinction between protection of vulnerable groups, and the issue of accommodation between separate groups which seek to assert their own identity, culture and tradition. Discrimination and exclusion of members of vulnerable groups is a violation of existing international human rights law, which requires equal rights and dignity of every person in society. Special protection for members of such minorities may often be required in order to make this a reality. When, on the other hand, some groups seek greater self-assertion and more space, this has to be balanced against justified concerns of other members on society and the territorial integrity of the state as a whole. Members of majorities and minorities should all be subject to a common regulation in areas where they have to interact on basis of equality. This area will in the following be called the *common domain* in society.¹

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