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Successful integration while respecting diversity; 'Old' minorities versus 'New' minorities

Rianne Letschert¹

1. Introduction

At the annual session in Edinburgh in 2004, the OSCE Parliamentary Assembly (hereafter PA) called on the High Commissioner on National Minorities to 'initiate a comparative study of the integration policies of established democracies and analyse the effect on the position of new minorities'.² The High Commissioner followed up this request, and requested the Migration Policy Group (hereafter MPG) to draft a paper. MPG's report analyses and compares the integration policies of Canada, Denmark, France, Germany, the Netherlands, Sweden and the United Kingdom. The present article will first analyse the difference between 'old' and 'new' minorities and the ensuing consequences. Secondly, the difficulty of combining the concepts of integration and diversity, as follows also from the MPG report, will be addressed. Lastly, the role of the High Commissioner with regard to issue pertaining to 'new' minorities will be examined, followed by some concluding remarks.

2. Defining 'old' and 'new' minorities

The international minority rights framework was originally developed to address the problems of national minorities which emerged in the 19th and early 20th centuries.³ National minorities were those groups which the upheavals in European history had created. Later on, a distinction was made between national minorities, also sometimes referred to as 'traditional' or 'historical' minorities, and 'new' minorities, those groups usually referred to as migrant workers and immigrant communities.⁴ The first group benefited from the minority rights

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² Report on the 13th Annual Session in Edinburgh, 5-9 July 2004 and the Declaration following the Annual Session, para. 71.

³ The international protection of minorities, however, did not begin in the 19th century but started with the establishment of the modern State system in Europe in 1648. See C. Fink, *Minority Rights as an International Question*, *Contemporary European History*, Vol. 9, No. 3, 2000, pp. 385-400. See also E. Ruiz Vieytez, 'The History of Legal Protection of Minorities in Europe, xviiith — xxth Centuries', University of Derby, *Working Papers in International Law & Relations*, No. 1, 1999 and A. Eide, 'The Framework Convention in Historical and Global Perspective', in M. Weller (ed.), *The Rights of Minorities, A Commentary on the European Framework Convention for the Protection of National Minorities*, *Oxford Commentaries on International Law*, Oxford University Press, 2005, pp. 25-47.

⁴ See also M. van den Bosch and W.J.M. van Genugten, *International Legal Protection of*

regime; the second group from international rules relating to migrant workers and immigrant communities.⁵ Both terms lack any legal status or agreed definition, however. Generally, two important reasons for the difficulty in arriving at a generally accepted definition can be pointed out. The first reason has to do with the complexity of the underlying issues (it is difficult to achieve consensus on several characteristics that form part of a definition) and the second concerns the reluctance of States to recognise minorities and consequently their rights.⁶ Eide has presented the following working definition of both terms in his article 'The Rights of Old versus 'New' Minorities':

Old minorities are composed of persons who lived, or whose ancestors lived, in the country or a part of it before the state became independent or before the boundaries were drawn in the way they are now. New minorities are composed of persons who have come in after the state became independent. To be a minority, the old as well as the new must be numerically inferior to the dominant majority in the country, and share common ethnic, religious or linguistic features which they want to preserve.

The MPG's report does not thoroughly address the issue of a definition, which was also not the intention of the report. The report uses the following working definition of the term 'new' minorities: '[...] those minority groups settled in the country whose presence is a result of more recent immigration.'⁷ What should be understood by the adjective 'recent' is unclear. This brings up the question of whether the qualification of 'old' and 'new' minorities, mostly explained by the length of stay on the territory, leads to or justifies any differences regarding the applicable minority rights for both groups. The High Commissioner once noted that 'the issue which confronts states and governments is essentially the same whether we are talking about national minorities or 'new minorities', namely what policies to adopt in order to manage diversity in their societies in ways which promote stability and prosperity and reduce the risks of tensions and social unrest.'⁸ This indeed seems logical. However, applying the minority protection

Migrant Workers, National Minorities and Indigenous People — Comparing Underlying Concepts, *International Journal on Minority and Group Rights*, 9, 2002, pp. 195-233.

⁵ Such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, GA Res. 45/158, 18 December 1990, entry into force 1 July 2003.

⁶ K. Henrard, *Devising an Adequate System of Minority Protection — Individual Human Rights, Minority Rights and the Right to Self-Determination*, Martinus Nijhoff Publishers, 2000, p. 18. See also M.N. Shaw, The Definition of Minorities in International Law, in Y. Dinstein and M. Tabory (eds.), *The Protection of Minorities and Human Rights*, Martinus Nijhoff Publishers, 1992, pp. 1-31, p. 30.

⁷ *MPG report*, p. 3. The report notes that many States use different definitions of immigrants, minorities etc. which makes comparison of the different policies difficult. Furthermore, 'the description of the terminology and definitions concerning immigrants used in the countries studied also revealed that it is impossible to deal with 'new' minorities as a category', paras. 110 ff and 159.

⁸ Address by Rolff Ekéus at the 15th Annual Session of the OSCE Parliamentary Assembly,

system which was originally foreseen for traditional minorities also to new minorities is not that simple. Differentiating between both groups is often justified by stating that ‘regarding groups of persons who immigrate after the state has been established and its present borders have been drawn, [...] there seems to be a broad assumption that since they have decided to immigrate of their own free will, they should generally accept the cultural and linguistic make-up of the country in which they now want to settle.’⁹

An additional difficulty in this discussion concerns the issue of citizenship. Where, generally speaking, many ‘old minorities’ possess citizenship of the country in which they reside, new minorities often have more difficulties in obtaining citizenship, which can have serious consequences, for instance regarding the right to effective political participation. An example taken from Croatian practice illustrates the controversies regarding this issue. Croatian Constitutional Law defines minorities as those persons having citizenship of the State. The experts from the Council of Europe Venice Commission, who assisted the Working Group that drafted the Law, accepted this limitation, although they did refer to ‘recent tendencies of minority protection in international law (Article 27 of the ICCPR and the practice of the HCNM)’ which illustrates a different position.¹⁰ Indeed, a new, more dynamic tendency to extend minority protection to non-citizens has developed over the recent past.

This view is notably expressed by the UN Human Rights Committee and the Advisory Committee on the Framework Convention. The latter defends an article-by-article approach to the question of a definition. In the Commission’s opinion, the choice of limiting the application *ratione personae* of specific minority protection to citizens only is, from the strictly legal point of view, defensible. States are nevertheless free, and encouraged, to extend it to other individuals, notably non-citizens. The HCNM decided to write his own recommendations on Croatian Constitutional Law as well as comments on the position of the Venice Commission. In a recommendation letter addressed to the Minister of Justice, Mr. Stjepan Ivanišević, he noted that he had approached four professors of international and constitutional law requesting their views on the following question: ‘Under international law, is citizenship a requirement for entitlement to [all] minority rights?’¹¹ The opinion of the experts was that international law

p. 3.

⁹ A. Eide, *The Rights of Old versus ‘New’ Minorities*, EYMI, Vol. 2, 2002-2003.

¹⁰ See CDL (2001) 20, 5 March 2001, Meeting of the Venice Commission Rapporteurs with the Croatian Working Group Drafting the Constitutional Law on the Rights of National Minorities in Croatia, Zagreb 4-5 January 2001. See also CDL-AD (2003)9, Opinion on the Constitutional Law on the Rights of National Minorities in Croatia.

¹¹ The following experts were consulted: Prof. Eide of Norway, the then Chairman of the United Nations Working Group on Minorities, Prof. Scheinin of Finland, Director of the Institute of Human Rights at the Åbo Akademi and a Member of the United Nations Human Rights Committee, Prof. Thornberry of the United Kingdom, Professor of International Law at Keele University and a Member of the United Nations Committee on the Elimination of Racial Discrimination, and Prof. Tomuschat of Germany, Professor of International Law

affords minority rights also to non-citizens. From a conceptual point of view, minority rights are an integral part of human rights, which in origin and content proceed from the presumption of their application to all human beings within the jurisdiction of the State without discrimination. The HCNM's view corresponds with this line of reasoning. The HCNM acknowledged possible exceptions to this general rule, notably that 'the exceptions are more correctly entitlements for which specific qualifications apply whereby citizenship is a relevant criterion.' This would be the case for certain political rights such as the right to vote and to stand for office. In addition, the HCNM also referred to the CoE Framework Convention for the Protection of National Minorities in which the 'area concept' incorporated in this treaty could be considered as an exception, viz., the area of traditional or substantial inhabitation by minorities calls for specific rights. However, as he continued, there is no explicit demand for citizenship in the relevant articles, and there seems to be no basis to establish such a requirement. In addition, it should not be forgotten that States are no longer free to determine their criteria for citizenship. International human rights law has already set important requirements for state legislation in this area.¹²

3. Integration versus diversity

Combining the concepts 'integration' and 'diversity' is not easy and appears to some extent to be contradictory. Minorities are required to integrate into society, sharing the values of the dominant culture, whereas they should also be allowed to maintain and preserve their specific identity. International minority rights law has clearly set boundaries to integration policies in that they cannot lead to forced assimilation and abandoning one's own specific identity. See in this regard Article 5 (2) of the Council of Europe Framework Convention for the Protection of National Minorities, which states that 'without prejudice to measures taken in pursuance of their general integration policy, the Parties shall refrain from policies or practices aimed at assimilation of persons belonging to national minorities against their will and shall protect these persons from any action aimed at such assimilation'. Indeed, 'while a degree of integration is required in every national society in order to make it possible for the State to respect and ensure human rights to every person within its territory without discrimination, the protection of minorities is intended to ensure that integration does not become unwanted assimilation or undermine the group identity of persons living on the territory of the State. Integration differs from assimilation in that while it develops and maintains a common domain where equal treatment and a common rule of law prevail, it also allows for pluralism.'¹³ This statement applies just as much for

at Humboldt University and a Member of the International Law Commission. See the Recommendation of 4 April 2001 to the Minister of Justice of Croatia, Mr. Stjepan Ivanišević.

¹² For a detailed overview, see Eide, *Old versus New Minorities*, para. v.

¹³ A. Eide, 'Commentary to the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities', Document for the UN Working Group on

traditional as for ‘new’ minorities, which was aptly noted by the High Commissioner on National Minorities:

Much more must be done to combat discrimination and intolerance, to promote equal access to employment and to more generally promote open and inclusive societies. Only through encouraging the so-called ‘new minorities’ to participate in the economic, social, cultural and political life of their new countries will they be integrated into their new societies. In this regard, they cannot be told that they must leave their religion, language or other key elements of their identity at the door [emphasis added by the author]. This is all the more true of second and subsequent generations who have no choice about where they are born. Of course, like all other persons within the State, they must equally understand that they are obliged to respect the law and — for reasons of national security, public order, health or morals — they may sometimes be required (like anyone else) to moderate some aspect of their behaviour.’¹⁴

The fact that they cannot be told ‘to abandon’ their specific characteristics indicates their right to preserve their specific identity. Does this mean that all minority rights as contained in minority rights instruments such as the OSCE Copenhagen Document and the CoE Framework Convention for the Protection of National Minorities can be invoked by ‘new’ minorities? The Council of Europe Advisory Committee that monitors the implementation of the Framework Convention for the Protection of Minorities has been faced with declarations by States Parties in which Governments have indicated the groups which they consider to fall under the scope of protection of the Framework Convention. Most declarations limit the protection to traditional minorities and citizens.¹⁵ The Advisory Committee has urged States to reconsider the declarations made, broadening the scope of protection also to non-citizens and migrants with regard to certain articles in the Convention. So far, however, these efforts have been without much success. Following this so-called article-by-article approach, the Committee suggested that some provisions clearly apply to ‘old’ minorities (such as Article 11(3) which specifically refers to areas traditionally inhabited by persons belonging to minorities), whereas others could be applicable to new minorities (Articles 3, 5, 6, 7 and 8).

It has furthermore been argued that a distinction should be based on the degree that a State is required to take positive measures in enabling minorities to preserve their own separate identity.¹⁶ When it comes to the requirement to take positive measures which imply significant burdens on States, the rights of old

Minorities, E/CN.4/Sub.2/AC.5/2001/2, 2 April 2001, para. 21.

¹⁴ Speech by Rolf Ekeus at a Roundtable organised by the Netherlands Helsinki Committee, *New Minorities: Inclusion and Equality*, October 20, 2003, pp. 11 and 12.

¹⁵ See for more information R.M. Letschert, *The Impact of Minority Rights Mechanisms*, Asser Press, 2005, Chapter 4.5.6.2 and R.M. Letschert and A.K. Meijknecht, *Nederland en het Kaderverdrag Minderheden; Beter ten Halve Gekeerd, Migrantenrecht 1*, pp. 20-24.

¹⁶ For an elaboration of specific rights and the degree of state commitments, see A. Eide, *The Rights of Old versus New Minorities*, EYMI, Vol. 2, 2002-2003.

minorities are stronger than the rights of new minorities. The UN Declaration on the Rights of Minorities, the CoE Framework Convention and the OSCE Copenhagen Document all refer to the need to adopt special measures; the Copenhagen Document states explicitly that, where necessary, States should adopt special measures in order to ensure that minorities can enjoy full equality in the exercise of their human rights with other citizens.¹⁷ Article 4(2) of the UN Minority Declaration urges States to take measures to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs, except where specific practices are in violation of national law and contrary to international standards. At the moment, there is no international consensus that States are required to take such positive measures with regard to new minorities.

A similar conclusion is drawn by the MPG. According to the MPG report, the countries concerned are each faced with extensive integration debates, where the view that integration has failed takes the upper hand. An interesting conclusion can be found in the executive summary, where it is stated that 'in some countries concerns about (too much) diversity causing societies to become fragmented and leading to declining support for the welfare state are gaining ground. In others, debates centre round the difficulties in reconciling different value systems where diverse (and according to some opposing) cultures and religions come into closer contact'.¹⁸ This indeed seems to be the crux in many Western European countries where the view that giving new minorities specific rights only leads to further segregation has taken the upper hand. For instance, the report notes that 'most of the European countries do not support minority-language teaching through public funding.' Note that the Netherlands has abolished education in immigrants' own language on the basis that the acquisition of Dutch should be given priority (it

¹⁷ Copenhagen Document, Chapter IV, para. 31. See Article 4 (2) HCNM and Article 1 (2) Minority Declaration. The need to adopt special measures (also referred to as preferential treatment, reverse discrimination or affirmative action) distinguishes the protection of minorities from non-discrimination. See for an elaboration the well-known distinction made by the UN Sub-Commission: 'Discrimination implies any act or conduct which denies to certain individuals equality of treatment with other individuals because they belong to particular social groups [...]. The aim is to prevent any act which might imply inequality of treatment on grounds of race, colour, sex, language, religion, political or other opinion, national and social origin, property, birth or other status. Thus the prevention of discrimination means the suppression or prevention of any conduct which denies or restricts a person's right to equality. The protection of minorities, on the other hand, although similarly inspired by the principle of equality of treatment of all peoples, requires positive action: concrete service is rendered to the minority group, such as the establishment of schools in which education is given in the native tongue of the members of the group [...]. Thus it may be seen that the ultimate goal of the protection of minorities differs from that of the prevention of discrimination. For this reason, the two questions must be dealt with in different ways [...]. One requires the elimination of any distinction imposed, and the other requires safeguards to preserve certain distinctions voluntarily maintained.' E/CN.4/Sub.2/40.

¹⁸ MPG report, para. 2, p. 3.

should also be observed that it is possible to establish private schools based on religious or ideological beliefs that can provide a greater degree of training in the pupils' own language).¹⁹ Furthermore, 'a number of States have sought to exclude the 'new minority' population from the more concrete provisions for the maintenance of culture, language and religion that are provided by minority rights standards. The difference with the approach to national minorities is striking. In part this difference can be explained by the expense of funding measures to maintain the 'new minority' language, culture and religion to the same extent as traditional minorities'.²⁰

The difference can furthermore be explained by the shift from a focusing on multiculturalism and diversity (mostly in the 1980s and 1990s) towards emphasis on promoting unity and social cohesion leading to the establishment of shared values.²¹ Difficulties in balancing between principles such as equal treatment, religious freedom, non-discrimination, tolerance and freedom of speech have further problematised the idea of respect for diversity.²²

4. The High Commissioner's involvement with 'new' minorities

As mentioned in the introduction, it was the High Commissioner, following a request by the OSCE Parliamentary Assembly, who asked the Migration Policy Group to conduct a study on integration policies in various OSCE Participating States. The PA's request did not come out of the blue. Already in 2003, in the Rotterdam Declaration adopted by the PA, the OSCE participating States were urged to strengthen the High Commissioner's mandate to deal with issues concerning new minorities and to give the Office more resources to cover these new tasks.²³ Following this declaration, no concrete steps were taken. Then, on 22 December 2004, the Bulgarian Chairman-in-Office appointed a Personal Representative on Combating Racism, Xenophobia and Discrimination, also focusing on Intolerance and Discrimination against Christians and Members of Other Religions, a Personal Representative on Combating anti-Semitism, and a Personal Representative on Combating Intolerance and Discrimination against

¹⁹ *MPG report*, para. 436.

²⁰ *MPG report*, para. 477.

²¹ The report gives several examples, among which are Denmark and the Netherlands, where integration contracts are concluded with immigrants, and such contracts contain the obligation that immigrants learn about the national values and mores of these societies, para. 60.

²² *MPG report*, para. 74. See also the discussion regarding the cartoon issue, which is covered in the OSCE newsletter of April 2006 and demonstrates the balancing act between freedom of expression and respect for religious beliefs and traditions.

²³ The Rotterdam Declaration of the OSCE Parliamentary Assembly and Resolutions adopted during the Twelfth Annual Session, 5 to 9 July 2003, Chapter III, para. 84 suggests 'that the mandate and resources of the OSCE High Commissioner on National Minorities be modified and strengthened to deal with the protection of the new minorities in established democracies in the OSCE area, and to help them integrate into the societies of their new homelands while recognizing their right to maintain their cultural heritage.'

Muslims. These appointments raised the question of whether the High Commissioner would still have a role to play in relation to these groups. I believe that he would, considering that it should be acknowledged that the needs of new minorities go beyond measures to combat discrimination, which appears to be the main focus of the above-mentioned representatives. As was noted by the High Commissioner, 'there is a great deal in common between new and established minorities both in the problems they face and in the means of resolving them. Both are likely to be concerned about political, economic and social exclusion and about the maintenance of their own culture'.²⁴

The main task of the High Commissioner, as described in his mandate, is to identify and seek early de-escalation of ethnic tensions that might endanger peace, stability or friendly relations among OSCE participating States. The instrument was set up to prevent international conflicts from erupting, mostly regarding grievances of minorities which have a kin-state in the neighbourhood. During the last decade, the situation of so-called 'new' minorities has attracted increasing attention from academics, and the question of whether the High Commissioner on National Minorities should also address issues pertaining to new minorities has arisen.²⁵ The High Commissioner at first indicated a willingness to address themes such as racism, anti-Semitism, and intolerance with regard to new minorities. However, he later stated that tensions involving new minorities only fall within his mandate if they have the potential to develop into conflict.²⁶

The High Commissioner's original observation that the problems of new minorities do not belong to his mandate has been criticised.²⁷ That this observation needed reconsideration is easy to justify as the security dimension of new minority problems becomes more and more obvious. Recent events (in 2005 and 2006) in France and the UK strongly indicate the explosive nature of the ongoing and increasing problems of the exclusion and discrimination of new minorities.²⁸ Note that the MPG report draws the conclusion that the 'war on terror' mainly affects Muslim immigrants, 'problematizing their ability to integrate into liberal Western societies'.²⁹ In addition, during many years of practice, the High Commissioner

²⁴ Address by the OSCE High Commissioner on National Minorities, Ambassador Rolf Ekéus, Thirteenth Meeting of the OSCE Economic Forum, 27 May 2005, p. 3.

²⁵ See also J. Packer, *Confronting the Contemporary Challenges of Europe's Minorities*, *Helsinki Monitor*, Vol. 16, no. 3, 2005, 227-231.

²⁶ He stated that 'my mandate is about conflict prevention and I believe that in choosing my priorities I should continue to look to the areas where risks of conflict are greatest.' Address by the OSCE High Commissioner on National Minorities, Ambassador Rolf Ekéus, Thirteenth Meeting of the OSCE Economic Forum, 27 May 2005, p. 3. See also the High Commissioner's address to the OSCE PA on 25 February 2005, OSCE Doc.HCNM.GAL/1/05.

²⁷ J. Packer, 'Confronting the Contemporary Challenges of Europe's Minorities', *Helsinki Monitor*, 2005, 3, 227-231 at 229-230.

²⁸ For more information, see the news presented on the website of the Minority Rights Group International: http://www.minorityrights.org/news_detail.asp?ID=387. See also Packer, 2005, p. 227.

²⁹ *MPG report*, para. 2, p. 3.

has been able to considerably expand his mandate with new tasks and working methods originally not foreseen.³⁰ Therefore, there seems to be a sufficient basis for the High Commissioner to consider issues relating to new minorities within his mandate and the follow-up he gave to the PA's request to have a paper drafted on the interesting topic of integration and diversity should therefore be welcomed.³¹

The MPG's report has been commented upon by the Director of the High Commissioner's Office, who raised some interesting questions following the conclusions of the report that need to be addressed in the future. The first one concerns the question of how to strike the right balance between 'cohesion and shared values and, correspondingly, away from protection and preservation of identity and traditions of immigrants and the accepted approach to the rights of minorities'.³² He expresses the fear that 'a lack of opportunity for migrants to preserve their language, culture and identity will breed a sense of alienation rather than promoting social cohesion.' Practices in several Western European countries indicate that this fear is not unwarranted and should therefore be addressed.

This, in turn, raises the question of whether the limitation that the requirement to adopt special measures only applies with regard to 'old' minorities can still be sustained. On the other hand, as De Fonblanque rightly questions, 'what are the effects of spatial integration/segregation on both minority and migrant communities in terms of their future integration into the community as a whole?'³³ These are difficult questions that dominate the political agenda of several Western European countries. The High Commissioner should follow the report through, by discussing the content with the countries analysed, and advising governments on how to approach these issues. Before doing so, it would be recommendable to bring together a group of experts from different fields who would be entrusted with the task of drafting specific guidelines or recommendations (following the earlier practice of the High Commissioner's Office to initiate the drafting of thematic recommendations) on how to combine the concepts of integration and diversity resulting in concrete policy measures or instruments, taking into account the needs of governments, as well as the majority and minority groups (thereby also addressing justifiable differences between 'old' and 'new' minorities).

While doing so, the High Commissioner should closely follow the

³⁰ For a thorough overview, see R.M. Letschert, *The Impact of Minority Rights Mechanisms*, Asser Press, 2005, Chapter 2.

³¹ Note the following statement by the High Commissioner: 'The notion of an inclusive society in which all feel valued and accepted involves not only setting out the legal framework but actually getting it implemented through policies promoting equality and combating discrimination. It is in this area of developing policies to promote integration with respect for diversity that my work coincides with the wider debate on integration and migration.' Address by the High Commissioner on National Minorities to the 11th OSCE Human Dimension Implementation Meeting, 2 October 2006, p. 4.

³² J. de Fonblanque, *Helsinki Monitor*, p. 6.

³³ J. de Fonblanque, *Helsinki Monitor*, p. 3.

implementation of the UN Convention on Migrant Workers and their Families. The convention is now in force and its monitoring body has started to function.³⁴ There is also a Special Rapporteur on the Human Rights of Migrants. There is reason to believe that these institutions will lead to increasing attention to the minority rights of 'new' minorities and cooperation between these institutions is therefore in place.

5. Concluding remarks

The issues raised in the MPG report — integration versus diversity, the role of the Government, equality and non-discrimination, participation in public life, the labour market, access to education, health care and other services — are issues the High Commissioner has been addressing when advising Governments on ways to accommodate minority interests in governmental policy. The High Commissioner has emphasised the importance of successful integration policies more than once:

'More generally, efforts helpful to promoting social cohesion and integration include regulated and transparent immigration policies, State support for language training, and greater awareness about the benefits (rather than costs) that immigrants who integrate into society can bring to their new communities. Mr. Chairman, permit me also to emphasise that the costs of failing to integrate persons belonging to minorities (whether indigenous or migrant) is high. Lack of integration can lead to ghettoization, mutual suspicion, and condemning a group to being an underclass.'³⁵

In a previous publication, I commended the High Commissioner for his continued efforts to contribute to a further development of standards in the area of the protection of the rights of minorities.³⁶ These efforts have had a very positive impact upon the process of standard-setting in the past, and there is definitely still space for further activities in this area. For instance, an area in which the High Commissioner should pursue his advisory role and standard-setting activities concerns issues in the social and economic sphere.³⁷ The MPG report pays considerable attention to problems in these areas, addressing issues such as adequate housing, access to education and health care, and participation in the labour market. The report brings to the fore serious shortcomings with regard to

³⁴ Note that the Convention was adopted already in 1990 and that the number of ratifications as of January 2007 is 34.

³⁵ Speech by Rolf Ekeus at a Roundtable organised by the Netherlands Helsinki Committee, *New Minorities: Inclusion and Equality*, October 20, 2003, pp. 11 and 12. See for other references also John de Fonblanque, *Integrating Minorities and Migrants*, *Helsinki Monitor*, Vol. 4, 2007, p. 337.

³⁶ A. Bloed and R.M. Letschert, 'The OSCE High Commissioner on National Minorities: Strengthening the Minority Rights Regime through Conflict Prevention', in K. Henrard and R. Dunbar, *Synergies in Minority Protection* (Cambridge University Press, Cambridge, 2007) (forthcoming).

³⁷ The High Commissioner himself noted that there has been a lack of attention to the social and economic rights of minorities. See for instance his statement at the Roundtable Conference on October 20, 2003, on 'New Minorities': *Inclusion and Equality*.

these rights in relation to minorities to the fore.

Another topic for increased attention by the High Commissioner concerns the scope of minority protection for new minorities. Considering the great expertise of the High Commissioner in the field of minority protection and his advisory role to governments on different ways of accommodating minorities' needs, thereby not losing sight of the interests of governments, it would be recommendable if the High Commissioner would follow up on the study conducted by the MPG. This would provide the High Commissioner, in particular, with an opportunity to conduct innovative work in terms of standard-setting, and this would also undo the criticised neglect regarding the issue of new minorities. That this would fall within the High Commissioner's mandate also follows from the conclusions in the report by the MPG which clearly reveal the extensive debates in several countries regarding the difficulty of finding a balance between the need to integrate, thereby recognising common values, and respecting different cultures. As the report concludes 'recognising differences requires governments to develop specialised approaches aimed at helping people to accommodate and negotiate their differences in ways that allow for genuine equality and help to minimise the risk of conflict'.³⁸ For many OSCE Participating States this will be a major challenge for the future.

It will also be a challenge for the High Commissioner and his staff, considering that many OSCE States oppose the High Commissioner's involvement in these issues (and will consequently also oppose a request for an increase in the High Commissioner's budget in order to take up these new tasks). It will take a deep breath for the High Commissioner to convince Governments of the necessity to adopt appropriate policies and measures. Hopefully Governments will ultimately realise that effectively addressing 'integration versus diversity issues', thereby accepting the High Commissioner's advice in these matters, will help in finding peaceful and constructive approaches in situations involving new minorities.

³⁸ MPG report, para. 48.