

## The Vulnerability and Protection of Minority Rights in a Globalized World: A Communitarian Critique

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Received: 07/02/2022 Accepted: 01/08/2022  
DOI: 10.22096/hr.2023.548418.1434

### Abstract

The protection of minority rights is a formidable challenge confronted by International Law. There are minority communities almost within every state. They face discrimination and hardships of varied nature everywhere. International Human Rights Law strives to protect these rights under a category called 'Civil and Cultural Rights'. This paper argues that the current apparatus of International Human Rights Law is insufficient to protect minority rights effectively, and emphasis to seek for alternative arrangements to help address the challenge in a better way. The paper critiques statist attitudes and contributes to communitarian critique to help protect the rights of the minority. Communitarian critique research methodology is deployed to identify and critique various obstacles and legal provisions in the way of the protection of minority rights. These are: the lack of a definition of minority, its divergent interpretations, the nature of minority rights, a feeble enforcement mechanism, and securitization of the minority rights. Relevant International and Regional Human Rights Law instruments are closely examined in this critique. This research finds that the current arrangement for the protection of minorities is aspirational and symbolic. There is a dire need to come up with a universal binding treaty ensuring firmly the protection of minority rights worldwide. The most striking feature of the treaty would be to establish a specialized court hearing cases related to the protection of minority rights around the globe.

**Keywords:** Minority Rights; Communitarianism; Statism; Multiculturalism; Communitarian Critique.

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## **1. Jurisprudential Meaning and Historical Emergence of the Notion of 'Minority'**

A thick malaise is surrounded worldwide over the protection of minority rights. There may be other challenges to International Law, however, the protection of minority rights poses a pertinent challenge in the realm particularly the International Human Rights Law. There is hardly a state, in the contemporary world, in which any minority community is not dwelling. Likewise, there is hardly a country in which minorities have not experienced discrimination, however slight it may be, or in the worst scenario, persecution at the hands of the majority.

The vulnerability and protection of minority is a global concern since every nation is confronted with it and very little have been achieved so far in this regard. It is argued that the protections afforded to minorities, particularly at international level, are aspirational and hence symbolic. It is further argued that there is a dire need to put in force a universal binding treaty for the proactive protection of minority rights.

This paper contributes to the discourse of Human Rights Law, particularly to communitarian critique. The paper deploys communitarian critique research methodology to identify and critique significant factors infringing the minority rights in a globalized world. This paper is situated within a theoretical framework related to a debate over the protection of minority rights between statist and multiculturalists.

Part 1 explores the jurisprudential meaning and historical emergence of the notion of 'minority'. Various legal and political factors are brought to fore and critiqued thereunder. Part 2 seeks various approaches to the active protection of minority rights. Part 3 concludes the paper.

The League of Nations, for the first time, marked the notion of minority rights. Later, the job was taken over by the United Nations.<sup>1</sup> The League of Nations, the UN, regional organisations and scholarly work, no doubt, have made a significant breakthrough in the field of minority rights. but so far very little has been achieved in terms of its true protection. Whatever has been gained is either vague or non-binding. So, problem with the protection of minority rights continues and this is mainly due to some political and legal hindrances as to definition of the term 'minority' and beyond.<sup>2</sup> The term

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1. Gaetano Pentassuglia, *Minorities in International Law* (Strasbourg: Council of Europe, 2002), 30.

2. Jelena Pejic, "Minority Rights in International Law," *Human Rights Quarterly* 19 (1997): 667.

‘minority’, the nature of the minority rights and its divergent interpretations in various legal instruments are the main legal obstacles to be explored and critiqued by deploying communitarian critique research methodology.

How daunting it might seem to define what constitutes a minority community? Unfortunately, the term ‘minority’ has not been comprehensively defined so far.<sup>3</sup> How come defining this notion is so difficult? This is arguably due to the conflicting approaches adopted by jurists regarding the nationality, size, non-dominant traits, and certain peculiarities as to the ethnic, linguistic, cultural, and religious attachments of the minorities.<sup>4</sup>

According to Pentassuglia,<sup>5</sup> the Permanent Court of International Justice, a mother court of International Court of Justice, for the first time, enunciated the meaning of ‘community’ as a group of people having a common language, religion, race, and traditions. They collectively strive to maintain and protect these values whenever threatened.

The Permanent Court of Justice was dissolved in 1946. And later, the task was taken over by the UN and the human rights movements, where protections were afforded to minorities through various international human rights law instruments. For example, Article 27 of the International Covenant on Civil and Political Rights (hereinafter, ICCPR) further strengthens the opinion of the dissolved Court through recognition of these values as rights, while the Human Rights Committee in its General Comment No. 23 takes these rights to another level by imposing a positive duty on states to protect such rights though initially it was believed that minority rights are only negative in nature.

The father of the Minority Rights discourse i.e., Francesco Capotorti brings in the elements of nationality as precondition to the qualification of minority, size, and non-dominant position in comparison to the rest of the population.<sup>6</sup> The Council of Europe welcomed this definition by including the term “national minorities” in the Framework Convention for the Protection of Minority Rights (hereinafter, Framework Convention).

Should nationality be a prerequisite to the qualification of minority? Or let’s put it this way – is it essential for a person belonging to a minority community to be a national of the country in which he/she resides. There is a clear split

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3. Patrick Thornberry, *International Law and the Rights of Minorities* (Clarendon, Press Oxford, 1991), 25.

4. Geoffrey Gilbert, “The Council of Europe and Minority Rights,” *Human Rights Quarterly* 18, no.1 (1996): 172.

5. Pentassuglia, *Minorities in International Law*, 32.

6. Gilbert, “The Council of Europe,” 174.

over this question between the international and regional instruments such as the Framework Convention. This question has been clearly answered in the Human Rights Committee General Comment No. 23 where even a migrant or a visitor may be regarded as member of a minority. For example, a student or a Muslim migrant in the United Kingdom should very much be considered a member of the Muslim minority community living in the country as far as the General Comment No. 23 is concerned.

Further justifications may also be given in support of the above. Here, this is how to be justified. The Comment referred to the word “exist” in Article 27 ICCPR. The word “exist” used in the article means that it is sufficient if the persons exist in the country irrespective of the fact, they have got any nationality to that country to qualify to be members of the minority. This is a liberal interpretation of the term ‘minority’. And perhaps this is how it should be as far as communitarianism and multiculturalism are concerned.

We live in a globalized world; people travel across the world and cultures on regular basis. By accepting this interpretation – to remove the precondition of the nationality – relegate human population into two broad categories – majority and minority. This interpretation also carries the strength to solve the status of people such as Roma – the largest ethnic and linguistic minority community in Europe.

Roma emerged from regions between India and Iran. They arrived in Europe in fourteenth century and currently there are eight to ten million Roma in Europe.<sup>7</sup> So, a member of a minority community should not be a citizen of the country in which he/she resides. Therefore, nationality should not be a precondition to qualify to belong to a minority community. The dilemma of the minority definition does not end here though.

The numerical size of the minority is another obstacle to its definition. What should be the minimum size of a community to constitute a minority community? In *Ivan Kotik v. Sweden* in 1985 the Human Rights Committee has quoted 5,000 as the number of ‘Sami’ community in Sweden as the minimum number to qualify to be granted the status of minority. Francesco Capotorti states that a minority group is inferior in number to the rest of the population of a country.<sup>8</sup> So, the numerical size is a question of fact and will be established by making comparison to the entire state population and looking

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7. “D.H. and Others v. the Czech Republic [GC],” HUDOC-European Court of Human Rights, 2007, <https://hudoc.echr.coe.int/fre#%7B%22itemid%22%3A%5B%22002-2439%22%5D%7D>

8. Pentassuglia, *Minorities in International Law*, 33.

at the fact who dominates whom.<sup>9</sup>

Capotorti has provided a comparative reference without indicating an exact minimum figure as given by the Human Rights Committee. Article 27 ICCPR is applicable even if both groups are of the same size but one dominating the other.<sup>10</sup> Here number becomes irrelevant. One must look at the position – inferior or otherwise – to assign the minority status. How come this judgement is possible when there are so many sub-factors related to inferior or dominant positions? The issue has been further elaborated upon by Capotorti.

Francesco Capotorti says minority group is non-dominant. This non-dominancy relates to the group's political, economic, cultural, or social strength.<sup>11</sup> To define or designate a group to come under a minority community these factors are to be taken into consideration.

The Minority Group International (hereinafter, MRG) has used the word “disadvantaged” instead of “non-dominant” which means that any ethnic, national, religious, or cultural group which is vulnerable may invoke the provision of article 27 ICCPR. This word has deliberately been used to cover minority or majority in non-dominant position.

Again, the non-dominant trait is a question of fact and can only be set up after considering the overall political, economic, cultural, and religious aspects of a country. Perhaps this is the most difficult task because it might involve more factors that would require persistent and regular research related to a particular community within a country. And above all, this is going to be an ongoing struggle. Let's see what other prominent writers say about the definition of minority.

John Packer has defined minority in the following words:

group of people who freely associate for an established purpose where their shared desire differs from that expressed by the majority rule.<sup>12</sup>

There should be a universal definition of the term minority. Almost all international jurists are of unanimous opinion that a minority group possesses, some or all, peculiar characteristics as to ethnicity, language, culture, and religion. The size and non-dominant traits are questions of fact, while the element of nationality remains the main hurdle in the definition of the term

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9. Pejic, “Minority Rights in International Law,” 666.

10. Thornberry, *International Law and the Rights of Minorities*, 27.

11. Pentassuglia, *Minorities in International Law*, 34.

12. Pentassuglia, *Minorities in International Law*, 59.

minority. The Human Rights Committee General Comment 23 if unanimously accepted, a comprehensive definition may appear in the minority rights regime. Even if there appears to be an all-compassing definition; there are other obstacles to be resolved too if true protections to be afforded to minorities.

The nature of the minority rights is quite debatable. The first group, for example Dinstein, Capotorti and Stavenhagen, adopts liberal view by saying that Article 27 ICCPR protects minorities as group. They argue that language, culture, and religion having collective nature and therefore, should be protected under Article 27 ICCPR.<sup>13</sup> They further argue that individuals can invoke other provisions contained in the human rights law in their individual capacity.

Minority Rights are basically called 'Group Rights'. These come under the Third Generation Human Rights where various groups are afforded protections, such as – women, children, special people, transgender, detainees etc. And minority is one of such groups. The second school is of the opinion that Article 27 ICCPR only safeguards individuals. They believe that Minority Rights are Civil and Cultural, which can be grouped under the First-Generation Human Rights. The latter is restricted to the literal interpretation. This view is many presented by the statist.

Statists basically deny group rights since they think that minority may pose a potential threat to the survival of a state. This view is explained in the later part of this article.

There also exists a third view saying Article 27 ICCPR accommodates both individuals and minorities as the right is 'hybrid'.<sup>14</sup> So according to Patrick Thornberry this means that both individuals belonging to minorities and minorities as group can invoke the provisions of Article 27 ICCPR. This third view seems quite novel and goes in favour of the actual protection of minority as a group and a member of a minority community as an individual. Here if we talk about granting remedies, so two legal remedies could be availed – individually as well as collectively. And perhaps this would be the actual protection of minorities – taking them out of the disadvantaged or non-dominant position.

Article 27 ICCPR is the only legally binding text on minorities among all international instruments.<sup>15</sup> Other instruments are: The UN Declaration on the

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13. Pejic, "Minority Rights in International Law," 667.

14. Thornberry, *International Law and the Rights of Minorities*, 28.

15. Pejic, "Minority Rights in International Law," 668.

Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, which is non-binding; Convention on the Prevention and Punishment of the Crime of Genocide and International Convention on the Elimination of All Forms of Racial Discrimination. Among the regional instruments, minorities' specific, the latest and the most important are in the European perspectives. For example, the Council of Europe Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages of the Council of Europe 1992. We will critically examine if the current apparatus is sufficient to protect minority rights or if there is a need to have alternative arrangements.

Article 27 ICCPR starts with, "In those States in which...minorities exist" thus leaves minorities at the mercy of states whether to be declared minorities as such.<sup>16</sup> There are states that deny such existence for example there are four ethnic minorities in Pakistan namely Pukhthun (15.4%), Sindhi (14.1%), Muhajir (7.5%) and Baluchi (3.5%) however, none of these have been declared as minorities in the Constitution of Pakistan 1973 according to Minority Rights Group International. Minorities in the Constitution of Pakistan refer only to religious minorities.<sup>17</sup>

Similarly, minorities in European countries are deemed to be minorities if they are national of any of the European countries. The situation is not different in India, neither the term 'minority' has been defined in the Indian Constitution nor a full list of minorities has been provided thereunder.<sup>18</sup>

The UN Declaration 1992 is the latest universal development towards the protection of minority rights. It has not only removed some of the ambiguities contained in Article 27 ICCPR but has also brought in the principles of recognition, access, and participation in the state affairs. Article 2 paragraph 4 asserts that minorities can make their own associations. An association can also be a political party. This is the formal recognition of the status of minority. This will further give access and participation in the affairs of the state which are vital for multinational country. However, the declaration has left minorities again at the mercy of the state for the exercise of their human rights and fundamental freedoms under Article 4, paragraph 1 as the words "where

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16. Pejic, "Minority Rights in International Law," 669.

17. Shaheen Ali and Javed Rehman, *Indigenous Peoples and Ethnic Minorities of Pakistan* (Richmond Surrey: Curzon Press, 2001), 45.

18. Hassan Ahmed, "Indian Constitution doesn't call Muslims a minority, who turned them into one?" The Print, February 04, 2022, <https://theprint.in/opinion/indian-constitution-doesnt-call-muslims-a-minority-who-turned-them-into-one/169501>.

required” have been used.<sup>19</sup> The declaration is non-binding, therefore, would not be able to protect minorities. This can be made effective only if “hardened” as treaties of binding nature.

The most significant and latest among the regional instruments is the Framework Convention and European Charter for Regional or Minority Languages of the Council of Europe 1992. Among the good things the Framework Convention did is to placing minority rights regime within the scope of international human rights under Article 1 of the Framework Convention. This means that minority issues are no more of a local nature but of international concern.<sup>20</sup>

The above seems true because almost all the states have got minorities except Iceland.<sup>21</sup> Botswana, Lesotho and Eswatini are also believed to be homogenous states, however, many minority groups reside in the countries. According to the Minority Rights Group International, in Botswana minority groups are Kalanga, Bakgalagadi, Basarwa, Mbanderu, Wayeyi, and Mbukushu; in Lesotho: European, Asian, and Xhosa; in Eswatini: Zulus, Shangaan, Europeans and Asians, Swazis, and Ethnologue minority groups exist.

Secondly, forced assimilation is prohibited under Article 5 of the Framework Convention. The right to participation has been acknowledged under Article 15. The alteration of population proportion has been prohibited in the areas in which national minorities reside under Article 16. The national minorities have also been entitled under Article 17 to keep contacts with the same community living cross borders.

However, there are some negative aspects of the Framework Convention as well. There is no make mention of the minority definition. Each member country will give its own distinct meaning to minority. For example, Germany has declared minority in its April 2009 Report.

Secondly, state parties have been given the discretion, subject to Advisory Committee of course, to realize such protections through internal legislative policies. That is why Minority Rights Group International fears that the state

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19. Pejic, “Minority Rights in International Law,” 670.

20. Gilbert, “The Council of Europe,” 175.

21. Marvin W. Mikesell and Alexander B. Murphy, “A Framework for Comparative Study of Minority-Group Aspirations,” *Annals of the Association of American Geographers* 81, no. 4 (1991): 583.

parties may avoid their obligations by not exercising this discretion properly.<sup>22</sup>

The lack of provisions of adequate funding is yet another factual problem needs to be overcome. It is the state responsibility to submit reports, therefore, an individual or a minority has got no standing in this regard.<sup>23</sup> However, Germany has taken comments from the organisations of national minorities in Part C of the report which is commendable. The Minority Rights Group International has also appreciated consulting minorities before submission of reports by the state parties.<sup>24</sup> Overall, the Framework Convention is considered a weak this is evident from the Parliamentary Assembly of Europe recommendation 1255 (1995). However, European Charter for Regional or Minority Languages of the Council of Europe 1992 has accomplished a remarkable job to protect the languages of minority communities in Europe.

Apart from legal obstacles mentioned above, there are some political obstacles as well. There exist two kinds of political attitudes towards minorities, firstly, minority as a foe and secondly minority as a friend to the existence of the state. These political cultures could be called “Statism” and “Multiculturalism” respectively.<sup>25</sup>

Statists assume that minorities are not only disloyal to the state but also work for state enemies inside the territory of the state in which they reside. Secondly, it is important for the sake of national integrity and solidarity of the state to keep them weak and disempowered. Thirdly, minority rights are directly related with the security of a state for example Tamil in Sri Lanka, Sikhs and Muslims in India and Kurds in Iraq.<sup>26</sup> As statists consider cultural cleavages threat to the internal security and integrity of a state, therefore, they are not in favour of minority rights. They assume that minorities will fade away with the passage of time through modernisation, globalisation, and economic growth.<sup>27</sup>

On the contrary, multiculturalists assume that cultural diversity is a value and not a vice. Secondly, the minorities are not going to fade away rather they would get stronger with the passage of time. Thirdly, autonomy and participation are important for minorities. Furthermore, minorities have

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22. Allan Phillips, *The Framework Convention for the Protection of National Minorities: A Policy Analysis* (London: Minority Rights Group International, 2002).

23. Gilbert, “The Council of Europe,” 176.

24. Phillips, *The Framework Convention*.

25. Wills Kymlicka, *Multiculturalism and Minority Rights West and East* (Flensburg: European Centre for Minority issues, 2002), 7.

26. Mikesell and Murphy, “A Framework for Comparative Study,” 584.

27. Kymlicka, *Multiculturalism and Minority Rights*, 8.

nothing to do with the state security and should be 'desecuritized' i.e., minority rights should be separated from the national security as they pose no threat. Lastly, minorities will be friends if any conflict of an international nature arises for example Scottish in Britain, Quebec in Canada, Flanders in Belgium, Catalonia in Spain, and Puerto Rico in the United States.<sup>28</sup>

As the multiculturalists assume that minorities are friend, therefore, they are greatly in favour of their rights. That is why this paper has adopted the multi-cultural and communitarian view of the minority rights by deploying communitarian critique to help resolve the dilemma of minorities around the globe.

If the just demands that of 'recognition, access and participation' are not met at the beginning there will always be strong resistance directed towards the majority.

Governments unable or unwilling to deal with "moderates" who want into a national society are often obliged to contend subsequently with "extremists" who want out of that society.<sup>29</sup>

Hurst Hannum says that there should be power sharing with minorities so that equality is achieved not only in law but also in fact.<sup>30</sup> So, multiculturalists recognise the fact that diversity is virtue, therefore, should be protected. These nations have started "cultural tourism". In Mexico cultural tourism is growing rapidly as it has attracted nearly 42 million visitors in 2008. There are 3,000 Kalash minorities on the soil of Pakistan. The expatriate community has written 80 books on them showing their keen interest in the Kalash community.<sup>31</sup> Pakistan, like Mexico, should think about starting cultural tourism in the region. The revenue thereof should be spent on the cultural preservation of the Kalash minority. Good to see that many Sikhs religious tourists are visiting from India to Pakistan on regular basis via Kartarpur corridor.

So, this is to conclude that statist and multiculturalists have been dealing with one group of people i.e., minority but both are in the opposite directions the former relegates them through 'cultural genocide' while the latter promotes them through 'cultural tourism', political, social, and economic participation.

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28. Kymlicka, *Multiculturalism and Minority Rights*, 8.

29. Mikesell and Murphy, "A Framework for Comparative Study," 585.

30. Hurst Hannum, "The Spectre of Secession: Responding to Claims for Ethnic Self-Determination," *Foreign Affairs* 77, no. 2 (1998): 14.

31. Ali and Rehman, *Indigenous Peoples and Ethnic Minorities*, 48.

This research finds that the current apparatus for the protection of minority rights is inadequate to provide minority communities with full protection. If we look at Article 27 ICCPR, it is too generic. The enforcement mechanism mentioned in the ICCPR is also weak – a true example of the soft nature of International Law. How can minorities be protected worldwide if all is relied upon the reporting mechanism system? Likewise, the UN Declaration on Minority Rights 1992 is neither authoritative nor binding on states. The third important document is the Framework Convention and the European Charter 1992 but unfortunately that is applicable in the European Context. One may argue what if the Framework Convention and the European Charter is extended to the entire world to protect minority rights. The next part is going to examine this argument critically.

## **2. Approaches to the Active Protection of Minority Rights**

The extension of the Framework Convention and the European Charter 1992 on Minority Language to the rest of the continents is not a wise idea and would produce less or even no fruit to be realistic. Firstly, this would be blamed as ‘Eurocentric’. Secondly, Afro-Asian countries are new and are in the developing phase, while the same is the case with countries in Latin America. Thirdly, their priorities are different and lastly, if extended to, as it is, would virtually give no benefits to the minorities due to the feeble nature of the Framework Convention. A critical analysis has already been carried over the Framework Convention and the European Charter 1992 in Part I.

Most of the countries on the African and Asian continents have been colonies of the West. The colonial encounter, in general, is not on the good books in the countries including countries on the Latin American soil. The case of colonial oppression is that of “Mau Mau” under the Kenyan Emergency 1952- 1960 by the British Colonial Administration so anything presented from Europe towards Africa or Asia would not be welcomed in general and would be blamed as ‘Eurocentric’.

These states (Afro-Asian and Latinas) are at the developing phase traditionally they keep state sovereignty and integrity at the top. These states consider minorities as a threat to their integrity and sovereignty. They follow the typical statist paradigm related to the management and governance of minorities. They would try their level best to keep the minorities disempowered and weak so that the chances of secession movements, if any,

are diminished. To export the idea of minority rights to countries that differ in political culture from the West would be counterproductive.<sup>32</sup>

There are few regional organisations on other continents namely The African Union, Arab League, South Asian Association for Regional Cooperation (hereinafter SAARC), Association of Southeast Asian Nations (hereinafter, ASEAN) and the American Convention on Human Rights. Their objectives are related mainly to trade, security, and economic cooperation. So, their priorities are different and if anything of non-binding nature is given to, they would remain indifferent towards. Moreover, it is the responsibility of the member states, under the Framework Convention, to submit periodical reports and to do the needful for the protection and participation of the minorities through domestic legislation.

Since minority rights are of no importance, at this stage at least, to the Afro-Asian and Latino states, therefore, they would, in the absence of any binding force, remain indifferent towards the submission of periodical reports and domestic legislation in this regard.

The Framework Convention is weak as far as the protection of minority rights is concerned. The same is evident from the Parliamentary Assembly of Europe in its recommendation 1255 (1995) as mentioned before. Moreover, the member states under the Framework Convention have got the powers to submit periodical reports. If the same is extended to Afro-Asian states would write reports in their own favour as most of the Afro-Asian countries fears of disintegration.

The post-communist states would sign anything to join the European Union. So, there is an economic attraction for such states to join the European Union. They would happily ratify any such convention. In the case of Afro-Asian countries there is neither binding force nor any force of economic attraction behind. So, the political obstacle will continue to play its role and the minorities would get nothing out of the Framework Convention if extended to these states. So, where lies the solution!

The minority rights regime has so far witnessed many legal instruments, declarations, recommendations, reports, opinions, comments, and scholarly works but none of these have provided effective protections. The non-binding and ambiguous nature of this literature has left minorities at the sweet will of the state. Whatever is universally applicable is non-binding and vague the

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32. Kymlicka, *Multiculturalism and Minority Rights*, 10.

prime examples would be Article 27 ICCPR, and the UN Declaration 1992 discussed in detail in Part I. Whatever is of binding nature is either limited in scope or left to the governments domestic legislative policies.<sup>33</sup> The international community needs to take a bold step towards a universal binding treaty for the protection of minority rights or make the current non-binding provisions as 'hard law'. The following paragraphs explain how it would be possible.

The treaty must entrench a clear definition of the term minority considering the General Comment No. 23 and the scholastic work which should prevail over other regional instruments and all national jurisdictions. Among other salient features there must be provisions for 'effective implementation'. The implementation should be carried out by a minority rights committee, an independent body to declare, interpret, and supervise the protections.

Minorities must be declared by the committee and not by the states. It is evident both from the state reports and from the HRC General Comment No. 23 that certain states are reluctant to declare minorities which is a question of fact; therefore, must be declared by an independent body such as the minority rights committee as such. Apart from states, rights should also be given to individuals, minorities, and NGOs to submit reports and complaints with the committee being part of the check and balance arrangements.

If the obstacles and issues are not addressed at the committee stage, there should be a specialized court for the enforcement of minority rights. The decision of such court should be binding on all states.

### **3. Conclusion**

The above communitarian critique has clearly highlighted that minority communities have been left at the mercy of state in which they reside. International Human Rights Law has initiated a very good discourse for their protection. Important legal protections regarding minority rights have been included in the ICCPR, the Framework Convention, and the European Charter 1992 on Minority Language, however, their true protection around the globe remains a formidable challenge to International Law to this date. And this is because minorities have neither been comprehensively defined, nor any strong protections afforded to safeguard them against any national or typical statist attitudes.

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33. Pentassuglia, *Minorities in International Law*, 60.

This paper has also highlighted that the protection of minority rights is a global concern. There is no state on the map of this world where there don't exist any minorities except Iceland. And sadly, they are subjected to discrimination almost in every country.

This paper, therefore, recommends putting in place a binding treaty for the protection of minority rights since state has failed to provide true protections to minority community. Perhaps, there can be no better alternative to this proposal.

In the final remarks, there is no doubt that the importance of minority rights has not been fully acknowledged at global level. A universal binding treaty, at this juncture, would be a remarkable step forward in the right direction if minorities are truly to be protected. This can lead minorities through all the legal and political barriers as explained before. At state level the constitutions will automatically be influenced and thus they would amend through this global supervision of matters related to minorities, and the protection will be provided at domestic level. Political and cultural barriers may still resist but the effective interaction, communication, participation, access, tolerance, and education will sow the seed of true multiculturalism at a global level where both majority and minority would live in harmony with each other.<sup>34</sup>

The universal binding treaty should provide for a court empowered to adjudicate upon matters related to minority rights across the globe. In case a state party has failed to provide remedies, an appeal should lie to the court erected under this binding treaty for providing effective relief. The decision of this court should stand binding on the national courts of all party states.

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34. Istvan Pogany, "Legal, Social and Economic Challenges Facing the Roma of Central and Eastern Europe," *Queen's Papers on Europeanisation* (2004).

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