

BOOK REVIEW

**MAREK ZIRK-SADOWSKI, BARTOSZ WOJCIECHOWSKI, AND
KAROLINA M CERN (EDS), TOWARDS RECOGNITION OF MINORITY
GROUPS: LEGAL AND COMMUNICATION STRATEGIES**

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Much has been said and written about minorities and the question of their recognition implying that there is little left to add. *Towards Recognition of Minority Groups: Legal and Communication Strategies* suggests and proves otherwise, however. As the title suggests, this edited volume delves deep into the complex question of minority recognition by focusing on two spheres: law and communication. To achieve this ambitious goal, it introduces a novel twist to the existing common ground on minority groups and their recognition.

Acknowledging the literature that exists already, it is fair to ask what this study accomplishes. In outlining new trajectories in ways to read, think and write about the topic, this volume marks a pivotal contribution to the field for several reasons. Firstly, it offers a consequential insight that builds upon and problematizes previous philosophical and legal debates on minorities, which are placed in the context of minorities in the 21st century. Secondly, and most significantly, the contributors represent an eclectic mix of scholars who transcend disciplinary tunnels and geographic boundaries. Excavating the literature with unorthodox or less commonly-expressed views, the Eastern European contributions bring us up to speed with contemporary minority group issues in an enlarged, and enlarging, Europe. Thirdly, in light of trends of globalization this volume sees minorities not in isolation, but embedded in a pluralist landscape that spans local and global realms. In sum, by taking stock of minority recognition from a vantage point that is retrospective and prospective, inclusive and exclusive and global and local, it sets in motion a renaissance of ideas about recognition of minorities and how it plays out in theory and practice.

With nineteen contributions, each chapter contributes to how we understand minorities and their recognition. Prefaced by a comprehensive introduction, the volume is broken into four parts: (i) Philosophical Approach to Human Rights (ii) The Fight for Recognition in the Sphere of Law (iii) Human Rights Legal Protection and (iv) The Problem of Legal Consensus and Legal Identity.

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While each can be read in isolation, it is also possible to view each section as a building-block that starts with philosophy, moves to law and concludes with analysis of a problem.

More concretely, Part I - Philosophical Approach to Human Rights - lays down the philosophical roots and development of human rights, and minority rights more specifically. The old conventional debate on individual/collective rights appears at the outset to serve as a gentle reminder that this issue remains unresolved and contentious. In this section and throughout the book, we see thinkers preoccupied with questions on minorities or recognition inform the volume, with weight given to the works of Isaiah Berlin, Emmanuel Levinas, Jürgen Habermas, and Paul Ricoeur to name but a few. This philosophical approach, backed up by the contemporary case study is well executed in “Value Pluralism and Legal Philosophy: The Impact of Isaiah Berlin and John Gray,” where we see Beata Palanowska-Sygulska employ the work of Berlin, as interpreted by Gray, for her point of departure to study value pluralism, according to which “human values are objective and knowable, but they are irreducibly plural” (p 23). After laying down the arguments in support of value pluralism, which lies in opposition to legal liberalism, Palanowska-Sygulska makes concrete their philosophies. To do so, the author places them in dialogue with the current practice of the European Court of Human Rights (ECtHR). Focusing on the right to education (Article 2 of Protocol No. 1) in connection with the right to freedom of thought, conscience and religion (Article 9), it is in the judicial setting that the judges are left with the task of reconciling these rights, which generate conflict, incoherence and incommensurability. In short, this chapter sees legal philosophers encounter ECtHR judges, the latter amounting to something of ‘active politicians’ rather than ‘practising philosophers’ (p 4).

A factor that has become paramount when dealing with minorities is context. Context, spatio-temporal context in particular, is a running theme that underlies the volume. Taking context in an unprecedented direction, which reflects the virtual and digitalizing era we live in, and tying in with the nature of rights that straddle legal and non-legal realms, Anna Maria Andersen Nawrot in “On the Human Right to Science and Culture” examines the interplay of reason and myth in the intellectual property, which gives rise to the Commons, “a resource shared by a group of people” (p 30). From a philosophical and human rights approach and building on the metaphors of Eric Raymond in *The Cathedral and the Bazaar: Musings on Linux and Open Source by an Accidental Revolutionary*, Andersen Nawrot argues that myth (as captured by the metaphor of the Bazaar representing creativity and chaos) plays an equal role as reason (as captured by the metaphor of the Cathedral representing structure) in creating and achieving the *ideal* right to science and culture.

Part II - The Fight for Recognition in the Sphere of Law - shifts from philosophy to law, where the minority's voice is articulated in law. Recognition, in all forms - mutual recognition, its social practice, its relationship with reciprocity, and the obligation to recognize - is discussed and debated at length. Substantiating its coherence and legibility, these chapters are especially well integrated. In the final chapter of this part, "Should There Be an Obligation to Recognize an Individual's Ascription? On the Margins of the 'Right to Exit' Debate" sees Michal Dudek unpack a particular phenomenon: internal recognition. Providing insight on questions of internal recognition (minorities within minorities) and concentrating on the right to exit, Dudek comes up with a three-tiered model of group ascription and the terms "name-keepers", who have partially exercised their right to exit and "name-givers," who have fully exercised their right to exit. Such binary categories are useful to help better understand this complicated phenomenon, but it also runs the risk of oversimplification, which the author himself acknowledges in a detailed footnote.

Following from the question of raising a voice in law, Part III - Human Rights Legal Protection - deals with how the voice is heard in law. Largest in length and scope, what is most notable is the selection of topics (domestic violence, slavery, self-determination and transitional justice) the diversity of locations (Brazil, the US, Greece and Central-Eastern Europe); and the range of individuals (victims of domestic violence, the Roma, Muslims and judges). Tatiana Machalová, in "The Principle of Self-Determination and Rights of National Minorities: A Legal and Philosophical Analysis of the Problem Using an Example from the Czech Republic," captures the essence of making the minority voice heard in law. Roma students in the Czech Republic and their rights claim in judicial processes are made heard not only domestically, but also regionally. The lens of self-determination principle and national minority rights set against the national principle, which are interconnected but conflictual, reveals how the Czech judiciary and European judiciary diverge, the former closing off their rights while the latter opening up their rights, and converge, as domestic and European decisions are shrouded in legal ambiguity.

Coming full circle and translating these legal issues into philosophical questions, Part IV - The Problem of Legal Consensus and Legal Identity - concludes this edited volume with an analysis of the problems encountered when minority voices are heard in law. Developments in the European context reveal the problem of legal consensus and legal identity. In "Flexible Normative Space between the European Law and the Member State Law as a Source of Constitutional Identity," Marek Zirk-Sadowski employs Poland as the object of inquiry and tries to reconcile Poland's constitutional identity,

specific to a Polish society and nation, with Europe, which arguably is making strides, however small, in creating a European “constitutional-like” identity despite the absence of a European constitution.

Based on the foregoing, this contribution is geared towards scholars in the fields of philosophy and legal theory. It is a worthwhile read for those preoccupied with collectives on the margins. However, this recommendation comes with a caveat for potential readers. While at first blush, the title - *Towards Recognition of Minority Groups: Legal and Communication Strategies* - amounts to a universal invitation, it is somewhat misleading. Several contributions have a core commitment to philosophy and legal and political theory, and those unfamiliar with these disciplines may find some chapters somewhat abstract and less accessible. The contributions, which are accompanied by a practical counterpart, in the form of a legal situation or case study, go some way to aid reader unfamiliar with the fields of philosophy and legal and political theory.

On the whole, this volume is a stark reminder that the recognition of minority groups remains a critical issue today. Capturing the essence of the challenges and concerns, Victor Tsilonis in “Les Misérables of Thessaloniki in 2011: A Practical Case Study of Human Rights and Human Abuse” provides an anecdotal account of his legal representation to three Muslims on a charge of theft of three-metres of copper wire in the Greek legal system, underscoring the tension and friction experienced by minorities when they encounter the law. While old philosophical and normative paradigms continue to steer the direction of these debates discursively, theoretically and legally, this volume marks a significant shift. Minorities, through the use of strategies in law and communication, have set in motion new ways to think about their issues, specifically concerning recognition that goes on to shape and reshape the philosophical and legal discourse. This edited volume attests to such trends and makes a noble attempt to address them.