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States and Minorities in the South Caucasus: A Test Case for the Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations

Introduction

In the social sciences, a theory is best tested against a case that is both clearly relevant and yet challenging with regard to the theory's underlying assumptions and expected outcomes. The South Caucasus represents precisely such a case for evaluating the latest set of Recommendations issued by the OSCE High Commissioner on National Minorities (HCNM): *The Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations* (hereafter Bolzano/Bozen Recommendations). The purpose of the Recommendations is to ensure that state support for persons belonging to national minorities abroad does not become a cause of friction between states and does not undermine the peace and stability of the OSCE area. History contains many examples of unilateral steps taken by states to protect or defend so-called kin-minorities abroad leading to tension or even violence. The wars waged in the name of kinship in the former Yugoslavia are an obvious example. Even as recently as 2008, war broke out between two OSCE participating States, in which one state, namely Russia, claimed to be acting in defence of minorities residing in another state, namely Georgia. In Central Europe, the role of Hungary in supporting Hungarian minorities in neighbouring states has long been the cause of friction between that country and its neighbours.

The South Caucasus remains one of the most volatile and conflict-prone regions of the OSCE area. The pattern of conflicts in the region has taken the following form: States and national minorities confront each other, external interference takes place through the involvement of either kin-states, regional powers, or both, and a frozen peace ensues. The context of transition and democratization creates conditions conducive to the occurrence of conflict, while the weakness of democratic institutions and the lack of traditions of democratic coexistence between different ethnic groups make it difficult to reach negotiated solutions. There is a risk that this pattern will be repeated, possibly involving other parts of the region. For example, if one were to assess the potential for tension in areas excluding the existing protracted conflicts of Nagorno-Karabakh, South Ossetia, and Abkhazia, one would focus

Note: Views expressed in this article are those of the author and do not reflect the official position of the OSCE High Commissioner on National Minorities. Arguments used in this article were first developed in Natalie Sabanadze, *States, Minorities and Regional Hegemons in South Caucasus: Whose Responsibility to Protect?* In: Francesco Palermo/Natalie Sabanadze (eds), *National Minorities in Inter-State Relations* (forthcoming).

on Georgia's Armenian-populated Samtskhe-Javakheti and Azeri-populated Kvemo Kartli regions, with the former indicating a higher potential for tension than the latter. This pattern of past and possible future conflicts involving states and minorities makes the South Caucasus the most likely case for testing and applying the Bolzano/Bozen Recommendations.

At the same time, however, the political dynamics and structural context of the region poses a number of challenges to the underlying assumptions of the HCNM's Recommendations. For instance, one of the central principles of the Bolzano/Bozen Recommendations is that "the respect for and protection of minority rights is primarily the responsibility of the State where the minority resides".¹ This, the Recommendations claim, is uncontested in international law and represents a "precondition for peace, security and democratic governance, especially in multi-ethnic States".² This entire section of the Recommendations is dedicated to ways in which states are expected to fulfil their responsibility to protect the rights of persons belonging to national minorities and promote their culture, language, and identity. This presumes that certain key conditions are already in place: first, that there exists a functioning, consolidated state with effective control over its entire territory and a capacity to fulfil its obligations with respect to national minorities; second, that persons belonging to national minorities agree to exercise their rights and refrain from challenging the authority, sovereignty, and territorial integrity of states in which they reside; third, that there is sufficient democratic space for the voicing of minority demands and a willingness on the part of both the state and minority representatives to negotiate and compromise, and, finally, that respect and protection of minority rights lead to the democratization of state-minority relations and contribute to the peace and stability of any multi-ethnic state.

None of the above is obviously present in the case of the South Caucasus. Two of the three South Caucasian states, Azerbaijan and Georgia, do not exercise effective control over their de jure territories. All three states are relatively underdeveloped, lacking democratic political culture as well as resources for devising elaborate and often expensive systems for minority protection. At one point or another, minorities have challenged the sovereignty and integrity of all three states, displaying greater affinity and loyalty to neighbouring kin-states or, in the case of South Ossetia and Abkhazia, to Russia. As a result, national minorities are perceived and treated as threats to national security, and the accommodation of their interests is seen to be contrary to the interests of the state. Due to the lack of integration and inclusion of minorities in the societies in which they live, relations between neighbouring states have a direct bearing on internal state-minority relations

1 OSCE HCNM, *The Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations & Explanatory Note*, June 2008, Recommendation 2, p. 5. The Recommendations and the Explanatory Note are available at: <http://www.osce.org/hcnm/68722>.

2 Explanatory note to Recommendation 2, in: *ibid.*, p. 11.

in the Caucasus. In general, this is one of those regions of the world where the legitimacy and sovereignty of states is challenged from both within and outside; where minorities are players in regional power struggles; where strategic interests, if need be, are defended with arms; and where international norms are put to the service of geopolitical considerations.

The question, therefore, is whether a soft-law document such as the Bolzano/Bozen Recommendations has any guidance to offer under such circumstances or any realistic chance of making the difference. This paper addresses the above question by exploring the relevance and applicability of the Bolzano/Bozen Recommendations in the context of the South Caucasus. It focuses specifically on Georgia, which of all the South Caucasian states is the most multi-ethnic and which displays a greater risk of domestic inter-ethnic tensions developing into inter-state confrontation. The paper argues that the Recommendations successfully balance the interests of states and those of minority communities and are particularly relevant under the challenging conditions of weak, democratizing states such as Georgia and its neighbours in the region.

Sovereignty as Responsibility

The Bolzano/Bozen Recommendations begin with references to state sovereignty, noting that sovereignty means not only an exclusive jurisdiction of the state over its territory and residents but also implies the obligation of the state to respect and ensure the protection of basic human rights and fundamental freedoms. Thus the Recommendations reflect the conditional understanding of sovereignty that requires states to demonstrate respect for minimum standards of human rights, i.e. sovereignty as a right (a right of states) is constitutive of certain duties.³ This includes the duty to protect and promote the rights of persons belonging to national minorities.

If sovereignty is responsibility, then challenging state sovereignty equates to challenging the state's capacity to fulfil its responsibilities both at home and abroad. This is likely to undermine the cause of minority protection. Georgia's experience in the 1990s illustrates that weak, insecure, and failing states cannot provide security for their citizens and are in no position to offer minority protection, which requires an elaborate legal framework, material resources, and political commitment.⁴ Furthermore, the weakness of

3 Cf. Henry Shue, *Limiting Sovereignty*, in: Jennifer Welsh (ed.), *Humanitarian Intervention and International Relations*, Oxford 2004.

4 In fact, weak and insecure states do not provide adequate protection of human rights in general. Brendan O'Leary argues that states that lack basic capabilities (such as recognized sovereignty over territory and its accompanying prerogatives) cannot protect elementary human rights, promote human development, or be inclusive in any meaningful sense. Cf. Brendan O'Leary, *Building Inclusive States*, UNDP Occasional Papers, 2004/9, pp. 1-2.

overarching state structures, particularly in multi-ethnic societies correlates with the concomitant growth of ethnic divisions and the polarization of identities.⁵ When states fail, people turn to their ethnic kin and family for protection and basic security. In these situations, group divisions are further reinforced, and even the most benign of disputes on daily matters become labelled with the non-negotiable categories of identity and culture, “us vs. them”, making violent conflict even more likely. In some cases, minorities appeal to kin-states or to dominant regional powers for support and protection, which can heighten perceptions of them as traitors or pawns in other states’ geopolitical games, with dangerous repercussions for their well-being and security.

The Bolzano/Bozen Recommendations try to limit internal and external challenges to state sovereignty because of the consequences both have for the protection of minority rights and for peaceful interstate relations. The Recommendations warn against pursuing policies and actions that “have the intention or effect of undermining the principles of territorial integrity”.⁶ In addition, the Recommendations note that not only the domestic security of states but also international peace and security can be threatened by acts that undermine the integration and social cohesion of multi-ethnic states. They therefore recommend that states ensure that “their policies with respect to national minorities abroad do not undermine the integration of minorities in the States where they reside or fuel separatist tendencies”.⁷ The Recommendations also note that this limitation concerns not only states and their policies vis-à-vis other states but also non-state actors. In this context, the Recommendations discourage foreign support and financing of political parties, movements, or religious organizations, as this influences domestic political processes and “often contributes to excessive politicization of minority issues to the detriment of societal integration and good inter-State relations”.⁸ The Recommendations also encourage persons belonging to national minorities to participate actively in public life and contribute to the integration and peaceful development of the societies in which they live.

One potential challenge to the traditional relations between state and citizens is the trend of individuals acquiring dual or even multiple citizenships. The example of Russia demonstrates that citizenship policy can be used as a tool in achieving strategic foreign policy objectives. It can be argued that Russia directly challenged Georgia’s “sovereignty as responsibility” when it conferred Russian citizenship on ethnic Abkhaz and Ossetians, and later claimed to bear responsibility for defending them by all means available. As HCNM Knut Vollebæk noted in his statement of 25 August 2008, principles of sovereignty and friendly relations between states require

5 Cf. Charles Kupchan, *Nationalism and Nationalities in the New Europe*, Ithaca, NY, 1995, p. 9.

6 Recommendation 10, in: The Bolzano/Bozen Recommendations, cited above (Note 1), p. 7.

7 Ibid., p. 2.

8 Explanatory note to Recommendation 13, in: *ibid.*, p. 21.

that states refrain from granting citizenship en masse to citizens of another state without that state's explicit consent. At the same time, the HCNM stated that "the presence of one's citizens and 'ethnic kin' abroad must not be used as a justification for undermining the sovereignty and territorial integrity of other States".⁹ States have only limited jurisdiction over their citizens abroad, such as consular protection, and the primary responsibility for the protection of dual or multiple nationals lies with the states in which they reside.

It has been widely accepted in international relations that states have the right to freely determine who their citizens will be, and citizenship policies have rarely come under international scrutiny. The HCNM's Bolzano/Bozen Recommendations is the first normative international document that urges states not to abuse this right and to give full consideration to the consequences of bestowing citizenship merely on the basis of ethnic, national, linguistic, or cultural ties – especially if it is conferred on residents of a neighbouring state.¹⁰ The warning is based on the experience of post-communist states, including Georgia, where citizenship policy has been used as a tool to promote strategic, geopolitical, or nationalist interests to the detriment of friendly relations and respect for the sovereignty and integrity of states.

At the same time, sovereignty as a responsibility can also be challenged from within by minority communities who feel alienated and disenfranchised in their states of residence. The experience of Georgia is once again indicative in this respect. The two autonomous minority communities of Abkhazia and South Ossetia broke away from Georgia soon after its independence and have continued their existence as de facto independent "statelets" thanks to external military and financial support.¹¹ The Armenian and Azeri communities have developed largely peaceful yet precarious relations with Georgia, treating the Georgian state with a degree of suspicion and mistrust. An interesting case in point is the Russian military base in Armenian-populated Akhalkalaki. The Georgian authorities saw the closure of the base as one of their top priorities, while the local Armenian population was adamant that the base should remain open. Armenians were keen to keep the base not only because of the economic benefits and short-term employment it provided for the local population, but also because it served as a guarantor of their security. They believed the base could protect them should nationalists in Tbilisi decide to do something against their interests.¹² The Russian base was eventually closed with less resistance than expected, but the Armenians' reluctance

9 OSCE High Commissioner on National Minorities, Press release, OSCE High Commissioner issues *statement on protection of minorities and citizens abroad*, 25 August 2008, at: <http://www.osce.org/hcnm/50009>.

10 Cf. Recommendations 10 and 11, in: The Bolzano/Bozen Recommendations, cited above (Note 1), p. 7.

11 Cf. Svante Cornell, *Small Nations and Great Powers*, London 2001.

12 Cf. Niklas Nilsson, Obstacles to Building a Civic Nation: Georgia's Armenian Minority and Conflicting Threat Perceptions, in *Ethnopolitics* 2/2009, pp. 135-153.

to see it go was indicative of the fact that minorities in Georgia continue to perceive their state of residence as a *threat to* rather than a *provider of* their security.¹³

State-minority relations in Georgia are characterized by conflicting threat perceptions, with state interests clashing with and being perceived as contrary to those of persons belonging to national minorities.¹⁴ As a result of their opposition to Georgia's independence, the ties of the country's minorities with neighbouring states and their resistance to integration into Georgian society have come to be linked with threats to fundamental national security interests. Outside interference, particularly Russian support for Georgia's minorities, which, in the case of South Ossetia and Abkhazia, included military support, further undermined the legitimacy and justice of minority demands and eroded the democratic space for the voicing of minority concerns in Georgia. Successive Georgian governments have found it difficult to treat minority demands on their own merit and to divorce them from Russia's post-imperial, geopolitical interests.

The Bolzano/Bozen Recommendations offer states a way to strengthen sovereignty by boosting their own legitimacy, particularly among minority communities. Section II of the Recommendations is dedicated to state obligations with respect to persons belonging to national minorities at home, and reiterates a number of relevant commitments enshrined in the Framework Convention for the Protection of National Minorities (FCNM) of the Council of Europe. It is essential that state-building is pursued in an inclusive and cautious manner with full respect for minority rights if it is not to be perceived as illegitimate and alienating by national minorities. The recent consolidation and modernization of the Georgian state under Mikheil Saakashvili has arguably engendered many contradictions among Georgia's national minorities, demonstrating the paradoxes of state-building in the multi-ethnic context. According to Julie George, a cleaner and more efficient administration has led to increased centralization, lower incomes for those non-Georgian communities that are dependent on smuggling and the black economy, and a deeper isolation from the centre due to the implementation of civil service and educational reforms, which enforced the Georgian language requirement for state employees.¹⁵ However, unless Georgia becomes a viable and functioning state, there is no realistic prospect of persons belonging to national minorities receiving adequate protection and opportunities for integration. An analogy can be drawn with the early stages of democratization, discussed later, which in a volatile, multi-ethnic context may lead to greater

13 Cf. Jonathan Wheatley, *The Integration of National Minorities in the Samtskhe-Javakheti and Kvemo Kartli Regions of Georgia*, ECMI Working Papers No. 44, September 2009, p. 50; available at: <http://www.ecmi.de>.

14 Cf. Nilsson, cited above (Note 12), for a detailed discussion of conflicting threat perceptions.

15 Cf. Julie A. George, The dangers of reform: state building and national minorities in Georgia, in: *Central Asian Survey* 2/2009, pp. 135-154.

conflict and instability. Nevertheless, democratization as well as state-building are essential for sustainable peace and stability, but need to be carried out in a circumspect manner. Hence, by reiterating state obligations, the Bolzano/Bozen Recommendations convey an important message: the need to strike the right balance between the strengthening of the state and respecting minority culture and identity. Without this balance at home and without a friendly environment abroad, peace and prosperity for regions such as the South Caucasus will remain elusive.

Dual Responsibility of States

When it comes to national minorities, domestic and international politics are closely intertwined. The majority of states today are multi-ethnic, and political and ethno-cultural boundaries rarely coincide. As a result, states find themselves in the dual position of being the home-state to national minorities residing under their jurisdiction and the kin-state to minorities residing abroad, often in neighbouring states. Much depends on how states fulfil their dual responsibilities, which include, on the one hand, protecting minority rights at home and, on the other, acting as responsible members of the international community with respect to minorities abroad. In this context, the record of the South Caucasus is mixed at best. Georgia has been struggling to achieve adequate protection of minority rights, and the ongoing transformations, regime changes, and the inherent weakness of the state after the Soviet collapse have all had negative consequences for state-minority relations. While progress can be seen, especially if one compares the situation of the early 1990s to that of today, much remains to be done before relations between centre and periphery and between state and minority communities are normalized and treated not only in terms of national security but also as matters of justice and human rights.

At the same time, the role and policies of neighbouring kin-states have been one of the main factors contributing to the securitization and delegitimization of the minority question in Georgia. Russian support and interventions on behalf of the Abkhaz and South Ossetians, as well as concerns about Russia's potential support for irredentist tendencies among Georgia's Armenian population have done little to allay fears of minority claims in Tbilisi or to facilitate their resolution through normal, democratic bargaining. In addition, Tbilisi is worried about the close ties between Yerevan and Moscow and believes that Russia may instrumentalize the Armenian minority in actions against Georgia if it so chooses. The most benign of the kin-states in the region has arguably been Azerbaijan, which has consistently promoted the integration of the Azeri minorities into the Georgian state. This has been one of the factors contributing to friendly, good-neighbourly relations between Baku and Tbilisi.

The example of the South Caucasus is indicative of dangers associated with overt securitization of state-minority relations. Will Kymlicka, among others, has argued that securitization diminishes the likelihood of minority demands being treated and accepted as just and legitimate. It makes the violation of minority rights easy to justify in the name of national security and out of fears, real or perceived, of irredentism and outside (military) intervention. Most importantly, it may generate the wrong kind of responses – often heavy-handed ones – on the part of the state authorities, and undermine the very security they are intending to promote.¹⁶ At the same time, the case of the Caucasus demonstrates that the minority question can only become de-securitized if concomitant efforts are made by all actors involved, including states of residence, kin-states, minorities, and regional powers. In this regard, the guidance offered by the Bolzano/Bozen Recommendations is particularly relevant. It explains how states can fulfil their responsibilities and support minorities both at home and abroad in a way that promotes minority rights and contributes to friendly relations. The ultimate outcome of such an approach will be the de-securitization and normalization of state-minority relations and a step towards the prevention of conflicts.

The Bolzano/Bozen Recommendations appeal to both the domestic and the international responsibilities of states. When supporting minorities abroad, states should act as responsible members of the international community and do so with respect for sovereignty and friendly relations. They should avoid instrumentalizing minorities for strategic or domestic political interests. Such interest-driven policies often result in an inconsistent approach to various kin-minorities as well as greater support for a particular group abroad than for minorities at home. According to Recommendation 15 of the Bolzano/Bozen Recommendations, when “states demonstrate greater interest in minorities abroad than at home or actively support a particular minority in one country while neglecting it elsewhere, the motives and credibility of their actions may be put into question”.¹⁷ The above Recommendation is based on the understanding that when states support minorities abroad out of geopolitical or nationalist motivations, this not only harms friendly interstate relations but also undermines the very cause of minority protection.

One way to reduce a state’s vulnerability to external interference is through sustainable democratization. Consolidated democracies are less threatened by their own ethno-cultural diversity, since they give minorities a stake in the societies in which they live and tend to be more successful in accommodating minority demands, including demands for autonomy and devo-

16 For a discussion of securitization of the minority question, see, for instance, Will Kymlicka, *Justice and Security in the Accommodation of Minority Nationalism*, in: Stephen May/Tariq Madood/Judith Squire (eds), *Ethnicity, Nationalism and Minority Rights*, Cambridge 2004, pp. 144-175; Will Kymlicka, *Multicultural Odysseys: Navigating the New International Politics of Diversity*, Oxford 2007.

17 Recommendation 15, in: The Bolzano/Bozen Recommendations, cited above (Note 1), p. 8.

lution. However, a distinction has to be drawn between functioning, consolidated democracies and states undergoing early stages of democratization. The process of democratization is fraught with dangers, creating conditions conducive to radicalization, violence, and conflict. Thus Jack Snyder sees the link between political openness, rising nationalism, and elite manipulation of unsophisticated constituencies as a recipe for conflict characteristic of the process of democratization.¹⁸ Similarly, Neil MacFarlane has argued, with regard to the South Caucasus, that “the transition from authoritarian to democratic forms of government may have negative implications for international and regional security”.¹⁹ In his view, democratization of the region’s politics provided space for the circulation of nationalist and chauvinist ideas and arguably created “an incentive structure in the region conducive to elite manipulation of national myths”.²⁰

When political claims are made and concerns voiced openly after a long period of authoritarianism and political repression, radicalization is almost inevitable. At the same time, in the early stages of democratic transition, the state tends to have weak institutions and no experience in handling confrontation within a democratic political framework. The charismatic leaders and ethnic entrepreneurs that thrive in these conditions further escalate tensions. Their strong personalities undermine institutions that are intended to provide continuity and stability and inspire trust in citizens. Under such circumstances, ill-intended foreign interference can be decisive in sparking conflict, while a carefully designed conflict-prevention strategy may help stop unrest from occurring. Recent conflicts in the South Caucasus were sparked off by just such a toxic combination of nationalist mobilization and the early stages of democratization in a multi-ethnic environment.

Conclusion

The Bolzano/Bozen Recommendations directly address one of the main sources of both intrastate and interstate tensions in the South Caucasus. They do so by striking a delicate balance between the interests of states and the rights of national minorities. The experience of the South Caucasus shows that states not only have a responsibility to protect citizens under their jurisdiction but also need to possess the capacity and legitimacy to do so. External challenges to state sovereignty stemming from kin-state interventions, for example, translate directly into challenges to state responsibility, and hence undermine the cause of minority protection. Weak and insecure states do not provide good minority protection. At the same time, “sovereignty as respon-

18 Cf. Jack Snyder, *From Voting to Violence: Democratization and Nationalist Conflict*, New York 2000.

19 Neil MacFarlane, Democratization, Nationalism and Regional Security in the South Caucasus, in: *Government and Opposition* 3/1997, pp. 399-420, here: p. 400.

20 Ibid.

sibility” can also be challenged from within by minority communities who feel disenfranchised and alienated and contest the legitimacy of the states in which they reside. States need to boost their legitimacy by democratizing state-minority relations and offering genuine protection of human rights, including those of minorities. Consequently, strengthening state legitimacy translates directly into strengthening state sovereignty.

Democratization is the key to sustainable normalization and de-securitization of state-minority relations. However, it is not without its dangers, since the early stages of democratization tend to be linked to the growth of internal tensions, conflicts, and even violence. In this context, outside interference can be crucial in tipping the balance and either sparking or preventing violent conflicts. States therefore have responsibilities in both the domestic and the international arena, and this includes a responsibility to develop policies in support of minorities abroad that respect international norms of friendly and good-neighbourly relations. If it is not to become a new form of irredentism and imperialism,²¹ international responsibility to protect human rights should be exercised in a way that does not undermine basic principles of international law.

This chapter has tried to demonstrate that all the above points are reflected in the Bolzano/Bozen Recommendations, making them particularly relevant for a volatile, multi-ethnic region such as the South Caucasus. Had all the relevant actors involved followed the principles of the Bolzano/Bozen Recommendations, the South Caucasus would have been a more peaceful and prosperous place than it is today.

21 Cf. Francesco Palermo, Irredentism, in: *Max Planck Encyclopaedia of Public International Law*, Oxford 2008.