

Introduction and Acknowledgements

The past two decades have evidenced an intense interest in minority and indigenous rights. The international instruments on minority rights adopted in the 1990s, most notably the 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities and the 1995 Council of Europe Framework Convention for the Protection of National Minorities, have served as important confirmations of state obligations towards minorities, but also as solid bases for valuable discussions on standards. The monitoring mechanisms, including the United Nations Treaty bodies and the Advisory Committee on the Framework Convention for the Protection of National Minorities, and the various fora on minorities, such as the UN Working Group on Minorities and the OSCE, have continue to be alerted to problematic situations around the world. This enables these bodies to highlight weaknesses in the existing system and to suggest possible solutions in the furtherance of the protection of minority and indigenous rights.

Although minority rights were the first to capture the international community's attention, indigenous rights quickly caught up, largely because of the tireless work of indigenous representatives and their supporters. The belief of indigenous peoples in international law as a central vehicle in their quest for justice has lead to the creation of no less than three United Nations fora, several regional bodies, one international convention and three draft declarations on their rights. Challenging well-established concepts, indigenous claims have gradually become an integral component of debates on wider topics such as multiculturalism and cultural identity. Apart from being a dominant theme in international decision-making bodies, indigenous issues have also become a recurring and challenging subject of debate in academic circles and literature.

The decision to examine issues related to minorities and indigenous peoples in the same volume derives from an understanding that both groups, although different, face similar challenges and have some similar claims. Even though indigenous peoples were originally reluctant to be linked to minority groups – understandably so, since states tried to avoid the recognition of their additional rights by equating them to minorities – years of debate have largely untangled the relationship between the two groups. It is now widely accepted that both groups can use the protection of general human rights as well as minority rights; further, indigenous peoples have the protection of instruments specifically dedicated to cover their particular characteristics. This volume addresses issues falling within all the above categories.

Years of intense focus on minority and indigenous rights have largely settled some basic, generic questions. Even the most impatient observer would agree that some long-term positive results have been achieved, as more groups have received protection, state policies are scrutinised more than ever and minority and indigenous rights are continuously being re-evaluated and expanded. Still, a lot of work remains to be done.

Long-standing issues continue to preoccupy the international community, whereas new challenges have come to the surface. Based on their deep knowledge and long experience, the contributors to this volume aim to advance the debate on minorities and indigenous peoples further. Controversial issues, such as definitions, collective rights and self-determination have long been used as a rhetorical device to avoid the evolution of the existing international standards in this field. Several contributors have defied that stagnation by taking a fresh approach to such issues. They make interesting suggestions that move the debate forward with regard to, for example, natural resources of indigenous peoples. Other chapters unravel challenges that have not attracted much attention thus far, such as colour as a ground for discrimination, and the economic and social rights of minority groups. Some contributions also explore concepts such as multiculturalism and integration, that have been used in the past without sufficient critical analysis and rarely from a human rights perspective. These contributions serve as excellent starting points for debates that could contribute to the protection of the human rights of minorities and indigenous peoples. The volume also looks at the recent work of international organisations on minorities and indigenous peoples. Refreshingly, these chapters set aside rhetoric and focus on a genuine evaluation of policies and practice. The volume also includes two case studies, of the Kurds and Jumma peoples, that highlight the regrettable similarities in the suffering of groups in different parts of the world as well as the stark contrast between state claims and actual practice.

This volume is the result of our academic interest on minorities and indigenous rights, which benefited from the excellent guidance of Professor Patrick Thornberry during our doctoral studies. Indeed, even more than its academic *raison d'être*, this volume has been published in honour of Patrick Thornberry and in order to celebrate his long-standing contributions to human rights and international law. Patrick's focus on non-discrimination, minority and indigenous rights; his prolific publications which combine the legal with the philosophical; and his input to both the theory and the practice of international law have all brought him wide recognition as one of the most prominent legal experts in minority and indigenous rights in the world.

Patrick's longstanding contribution to human rights thinking, in particular in the field of minorities and indigenous peoples, has seen a series of influential publications. His book on minorities, *International Law and the Rights of Minorities* (Oxford: Clarendon Press, 1993) has gained repute as an enduring, often-cited and highly authoritative study of minority rights. His second substantial monograph *Indigenous Peoples and Human Rights* (Manchester: Manchester University Press, 2002) has already been received warmly by academics, practitioners and indigenous peoples, as it considerably evolves the debate. His most recent addition, *Minority Rights in Europe* (with M. A. Martín Estébanez – Council of Europe, 2004) combines legal analysis with a refreshingly genuine critique of the work of the Council of Europe on minorities. He has widely published on the issue of self-determination and has examined it as a minority claim, an indigenous claim and a justification for the use of force, topics which are also addressed in the current volume. His publications demonstrate a rare ability to adopt with ease a multi-disciplinary approach, dealing with difficult political, critical, and

other theoretical concepts in an accessible way and combining laborious legal analysis with literature and even poetry on occasions. Patrick is passionate in his quest for justice, but manages at the same time to give a serious, comprehensive and balanced treatment of minority and indigenous rights. The number of citations and references reveal his meticulous research, but also indicate his real desire to share his sources and views with others.

Indeed, colleagues – especially young academics and students – are sometimes surprised by his willingness to share his sources with them. In an academic world where careers are based on findings and research, Patrick has always been eager to give opportunities, to share his vision and is a real team-player. Currently, he is Professor of International Law at the University of Keele, and a Visiting Fellow of Kellogg College, University of Oxford. He was also a Visiting Professor from 1993 to 1995 at the East-West Forum at the Academy of European Law, European University Institute, Florence. He has inspired many students with his passion for human rights and has supervised tens of academic studies on various aspects of international law. Many of his students have since become academics, practitioners and international civil servants and often cite and thank their supervisor for his time and genuine interest.

His passion for human rights is also evident in his work for various international organisations. A deep believer that theory must lead to policy changes, Patrick Thornberry has liberally given his expertise and time to several non-governmental organisations concerned with the rights of minorities and indigenous peoples. He served from November 1994 to 2002 as a member of the International Council of Minority Rights Group International, and as Chairman of that Council from 1999-2002. Since 1997, he has also served as a member of the Advisory Council of the European Centre for Minority Issues. Through his experience of many United Nations fora on minorities and indigenous peoples and due to his expertise and his eye for detail, he has participated in the drafting committees of several instruments on minorities and indigenous rights, where he has initiated changes with positive repercussions for these groups. At the same time, Patrick has always insisted that the groups in question must themselves decide on their priorities and strategies and has therefore respectfully chosen to be absent from minority and indigenous fora focussed on deciding strategies.

His work has made him known to many international bodies that implement international legal standards. His expertise combined with his balanced view on difficult questions, his diplomatic – but also sincere – manner and willingness to work tirelessly have lead to his membership to a Team of Experts to Hungary and Slovakia on behalf of the OSCE High Commissioner on National Minorities between 1994 and 1996. In 1994, he was appointed by the Foreign and Commonwealth Office to the list of six UK Experts for the CSCE Human Dimension Mechanism. He is currently a member of the UN Committee on the Elimination of Racial Discrimination (CERD), and within this context has served as Country Rapporteur for many countries including Cyprus, Croatia, New Zealand, Russian Federation, and Argentina.

All contributors in this volume share one thing: they have all worked with Patrick Thornberry. They are not the only people who have worked with Patrick, neither are

they necessarily his closest colleagues. Patrick has worked with so many people that colleagues could easily fill three volumes in his honour! All of them have been affected by his passion for justice and human rights.

We are sincerely grateful to the contributors who joined us with enthusiasm towards this project. They have all contributed their chapters in honour of Patrick and made this a priority in their heavy workloads. David Duffy, Lynda Warrington and Christopher Tinker kindly allowed us to benefit from the editorial expertise, Charlene Yates assisted with the proofreading and Jules Guldenmund did an excellent job with the typesetting. Any remaining shortcomings are clearly our own. We also thank Lindy Melman of Martinus Nijhoff/Brill Publishers for enthusiastically supporting this collection. As for the editors, the time during which this collection has been compiled has been a very happy time of celebrating a birth, promotion and a wedding. It has been a pleasure to have had 'Patrick's surprise project' as a constant presence with us in this happy time.

Finally, we are grateful to Patrick Thornberry for his inspiration, his mentoring, his support and, above all, his friendship.

Alexandra Xanthaki and Nazila Ghanea, with Francesca Thornberry