

Student handout 7.2

How do democracies care for the protection of minorities?

The problem of how the rights of majorities and minorities are to be balanced is a core issue at all levels of the community, from small clubs up to state level. On the one hand, the will of the majority must be respected in a democracy. On the other hand, interests of minorities must be respected too. If there is a group of permanent losers who feel they are being discriminated against, this can lead to serious conflict within a community.

In the constitutions of democracies, two solutions are commonly applied – both set limits to what the majority may decide. One is to limit the power of the majority by giving smaller entities rights of autonomy (the federal or cantonal model). The other solution is to incorporate human rights as civil rights. Then these rights protect individuals and minority groups, as the majority must respect these rights.

1. The federal/cantonal model

Minority groups form regional entities within the state – federal states or cantons. The USA, Germany or Belgium are examples of federalism, while Switzerland is an example of the cantonal model. Within these smaller entities, the majority decides, and this may include the right to control one's own budget or to participate in national legislation. Democratic constitutions differ in the amount of autonomy they grant to these sub-entities.

This idea can be taken even further by changing the definition of the majority. If certain decisions require a majority quorum of more than 50–75% or even 100% – the minority groups can influence political decisions, and may even have the right of veto.

2. Human rights as minority rights

Human rights work as minority rights by setting limits to what the majority may decide. For example, take these articles from the European Convention on Human Rights of 4 November 1950:

Article 5, Right to liberty ...

Everyone has the right to liberty ...

Article 14, Prohibition of discrimination

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Articles 5 and 14 address two principles of human rights – liberty and equality.

Citizens whose human rights have been violated in a member state of the Council of Europe, can appeal to the European Court of Human Rights.

Human rights become civil rights once they become part of the constitution. In this case, they are more strongly protected, as they now become part of the legal system, but they only apply to citizens of that state. In some countries, a constitutional court has been established to protect civil rights. Amendments to the constitution usually require more than a simple majority, so minority groups can prevent changes that would work to their disadvantage.