

JUDICIAL, LEGISLATIVE AND EDUCATIONAL APPROACHES TO OVERCOME DISCRIMINATION IN THE BALTIC COUNTRIES

by Boris Tsilevich

Centre for Educational and Social Research "Baltic Insight", Riga, Latvia

.....*The Problem of Discrimination Characteristics of the Baltic States*

Amazing changes have occurred in Central and Eastern Europe within the last 10 years. The successful movement towards sustainable democracy, growing respect for human rights and rapid development of civil society in the region cannot be questioned. However, nationalistic feelings are widespread in all newly independent post-communist countries of the region where ethnic nationalism has always been a dominant political philosophy.

In the Baltic States, historical factors make the problem particularly acute. Annexation in 1940 by the Union of Soviet Socialist Republics (USSR) and drastic changes in the demographic situation caused by large-scale in-migration after the Second World War

caused fear of "ethnic extinction" among the indigenous populations and thus strengthened nationalism. Not surprisingly, the emerging legal framework is directly or indirectly aimed at consolidating the position of the dominant ethnic groups. Political, legislative and administrative measures taken in the course of "ethno-national self-defence" are often perceived - and not groundlessly - as discriminatory towards ethnic and linguistic minorities of these countries.

The main peculiarity of the situation in the Baltic States is that the politicization of ethnicity, common for all post-Communist states, is carried out predominantly through legal channels, often connected with the ethnic factor only indirectly. Legitimatization of ethnic domination is based, first of all, upon the restored state and (in practical terms, in Estonia and Latvia) upon the "restored citizenship" concept - an approach that gener-

ally enjoys support in the international community. A restrictive approach to citizenship provided political domination of the titular groups, which, in turn, allowed restrictions in other areas too, often ignoring the views of the numerically significant minority population. This situation inevitably provokes - but must not necessarily lead to - ethnically based discrimination.

By directing nationalistic feelings through legal channels, the Baltic States managed to avoid not only violent inter-ethnic clashes but also substantial deterioration of inter-ethnic relations. On the other hand, legitimization of ethnic domination through citizenship, language policies, cadre politics, etc., creates long-term obstacles to the development of inclusive democracy and eliminates incentives for seeking efficient forms of inter-ethnic dialogue. Under such circumstances, the emerging post-Communist political regimes in Estonia and Latvia are taking the shape of a so-called "ethnic democracy" i.e., a combination of certain democratic principles with elements of ethnic favouritism.¹ This trend borders dangerously on discrimination.

Three major aspects can be singled out to characterize this phenomenon. The first is connected with the deeply rooted stereotypes and historically predetermined perceptions of the Baltic nations. Beginning in 1918, ethnic Estonians, Latvians and Lithuanians sought to build nations. These efforts were violently terminated in 1940 by Soviet annexation. Radical nationalists now demand expulsion of all "Russian colonists", while more moderate politicians agree with the need to integrate non-citizens. The latter concept has been accepted officially only recently. However, the notion of integration is still fluid.

For most Baltic opinion makers, integration means something very close to ethnic assimilation: in order to integrate, Russian-speakers must not only fully master the Latvian language. They must also follow cultural guidelines. Minorities can manifest their identity inside their cultural associations and religious communities, while at the social level they must "become" Estonians or Latvians in linguistic and cultural terms. In turn, Russian-speakers understand integration, as a rule, as merely the acceptance of independent Estonian/Latvian statehood, obedience to laws, participation in social (including political) life and recognition of their identity and dignity.

A second factor is related to the role of the political elites in the Baltic States. With the exception of a few former dissidents and young leaders, "recirculated" members of the former Communist elites constitute a considerable share of the current ruling groups.² Mobilization on ethnic grounds was the most powerful factor behind the fast and peaceful restoration of Baltic independence, and an ethnically cemented constituency remains the basis for most political parties in these countries. In other words, maintaining ethnic values is an issue of power, which is, under the conditions of ongoing large-scale privatization, closely connected with economic wealth. Large-scale naturalization would inevitably undermine the leading position of the current ruling parties.

A third aspect regards reactions and attitudes of the "new minorities". As one astute political scientist pointed out, "In spite of the growth of a culture of minority rights in the society as a whole, there is virtually no minority rights-based political culture within the minorities themselves".³ Indeed, claims of the "post-communist minorities" are more often expressed in terms of self-determination than non-discrimination or a modern approach to minority rights.

An international political dimension of the problem should be mentioned. As Vello Pettai remarked, the policy of non-recognition of the Soviet annexation of the Baltic States, which most Western countries adopted during the Cold War, led them to 'objectification' of ethnic nationalism through association with international law".⁴

Vulnerable Areas

.....The Citizenship Problem

Latvia and Estonia were the only post-Soviet States that did not adopt "zero option" citizenship after the restoration of independence, in which only those individuals who were citizens of these States before annexation in 1940 and their descendants were recognized as "initial" citizens of the re-established States. This solution was based on the so-called concept of legal continuity (in Lithuania, this principle was in fact adopted only formally).

The problem of citizenship in Baltic States provoked lively debate among international human rights experts. The opinions of the authorities differed significantly.⁵ For example, Asbjorn Eide wrote: "The denial of initial citizenship... is likely to generate serious human rights problems. It would undoubtedly be most in conformity with modern human rights and practice if all persons, who under the law preceding new or restored independence had become lawful residents of the territory, were given the option to become automatic (initial) citizens of the new (restored) state".⁶

This view was, in even stronger language, backed by Bill Bowring: "These provisions as to citizenship and their consequences may well violate Articles 6 and 15 of the 1948 Universal Declaration of Human Rights, Articles 25 of the 1966 International Covenant on Civil and Political Rights, and Article 1 and 10(2) of the Convention on the Reduction of Statelessness. There are many persons who were born in Latvia, have lived there all their lives, and worked, paying taxes, who have no representation".⁷

These opinions, however, were never shared by official representatives of intergovernmental organizations (IGOs). "International law has traditionally left the issue of citizenship within the realm of a State's jurisdiction. Although human rights declarations and conventions contain relevant provisions on citizenship or nationality, there remains a certain gap in international human rights law".⁸

The problem was perceived as dangerous, however, from the point of view of provoking discrimination. International organizations have been urging Estonia and Latvia to resolve the problem of resident non-citizens within their territories through granting them citizenship in a non-discriminatory way.

.....*The Status of Resident Non-citizens*

Those residents of Baltic States who were not granted initial citizenship in the re-established States were the most vulnerable to discrimination. In Estonia, their status was defined in the Law on Aliens adopted by the Estonian parliament in 1993. According to this law, all resident non-citizens who had to apply for resi-

dence permits in order to stay in Estonia were declared aliens. Adoption of this law caused strong resentment on the part of the Russian-speaking community and the situation in the country became increasingly tense. The reaction of European organizations was strong and included active intervention of the (CSCE/OSCE) High Commissioner on National Minorities.⁹ Some amendments recommended by European experts were introduced into the final version of the law adopted on 8 July, 1993. In this version, the Law on Aliens established the right of all persons, with a few exceptions, who had permanently resided in Estonia and did not have Estonian citizenship, to receive a residence permit. However, there were frequent complaints about bureaucratic abuses connected with the cumbersome procedures needed to obtain the residence permits. The right to freedom of movement for non-citizens appeared restricted. Initially, Estonian authorities issued a temporary travel document, which was valid for one trip abroad. Only a few countries agreed to recognize this document and in 1994, the Estonian Government issued a more permanent document to be in use both internally and abroad — the alien's passport. The process of application for and issuing of these passports was accomplished, though not completely, by the end of 1997.¹⁰

In Latvia, prior to 1995, parliament determined it was necessary to compile the registry of residents. Systematic administrative violations were perpetrated by officials in the Department of Citizenship and Immigration. Any person who was denied entry in the registry, often contrary to law, was barred from legal employment, social benefits, marriage registration, etc.¹¹ In April 1995, a law was adopted on the status of former citizens of the USSR who were not citizens of Latvia or another State. This law legalized the continued residence of non-citizens in the country, guaranteed their right to leave and re-enter Latvia freely and granted them a (somewhat circumscribed) right of family reunion. In effect, this law introduced a new legal status: former citizens of the USSR were regarded neither as citizens of Latvia nor as citizens of another State, nor were they treated as stateless persons. However, issuing of the so called non-citizens' (aliens') passports, which were to provide freedom of movement, started

only in April 1997. In apparent contradiction with the law, the Latvian authorities continued to require non-citizens departing with former Soviet passports to obtain separate re-entry guarantees.¹²

The issue of non-discrimination against non-citizens in the field of social and economic rights was of particular importance. A number of laws, regulations and administrative decisions adopted both in Estonia and Latvia limited property rights, the right to work in certain professions, the right to receive social benefits, the right of self-defense, freedom of conscience and a number of other rights of non-citizens.'-' The rapporteur of the Political Affairs Committee of the Council of Europe wrote: "Thirty-two discrepancies between the rights and status of citizens as compared to permanently resident 'non-citizens' were presented to us by the League of Stateless Persons. If accurate, they go beyond any degree of discrimination which is acceptable by Council of Europe standards - particularly in regard to freedom of movement. ..".¹⁴ This problem was stressed also in the US Department of State report on human rights practices in Latvia.¹⁵ The study, released in December 1996, identified 10 differences between the rights of citizens and non-citizens as inconsistent with obligations under the International Covenant on Civil and Political Rights (ICCPR). These included restrictions on non-citizen employment as firefighters, armed guards, private detectives, members of airline crews, certified attorneys and pharmacists. However, international human rights instruments other than the ICCPR were not taken into account in this study. In addition, government decrees and other sub-legal acts, as well as municipal acts, were not taken into consideration.

Some progress was made in eliminating legislative discrimination against non-citizens. In 1997, two restrictions were revoked, but the remainder continued to be debated in parliamentary commissions."¹⁶ The European Commission's opinion on Latvia's application for membership to the European Union contained, along with numerous positive evaluations, serious critical remarks and stated: "'Non-citizens' continue to be affected by various types of discrimination. They are barred from certain occupations."¹⁷

.....*Language Policies*

Thus far, the scope of international instruments regulating the usage of languages has not developed to a degree that allows discussion of the problem in terms of discrimination. In particular, the International Convention on the Elimination of All Forms of Racial Discrimination does not mention language among the prohibited discrimination criteria. However, the ICCPR does mention language in this context. There is no doubt that any distinction or preference set solely on the basis of a person's mother tongue should be determined as discriminatory. In the meantime, the demand for state officers and persons employed in certain areas to know and use certain official language(s) is no doubt reasonable.¹⁸

Because of ethnic imbalances within the Baltic States, legislatures tend to increase gradually limitations on usage of other languages and mandatory knowledge of the state language. Drafts of Estonian and Latvian language laws were evaluated as problematic from the point of view of human rights standards. In November 1997, the Estonian parliament passed amendments to the Law on Language. The amended law would have allowed government agencies to regulate the use of Estonian in the private sector (within private businesses, etc). The president refused to promulgate these amendments to the Law on Language. Eventually, the National Court (Constitutional Court) resolved the dispute between the president and the parliament in favor of the former. At the same time, the court ruled that 'the defence and the use of the Estonian language is established as a constitutional goal and the state is obliged to ensure that this goal will be reached. This ruling could potentially still allow authorities to take questionable measures for the promotion of the Estonian language.'¹⁹

In Latvia, the proposed state language law, which has already passed two hurdles in parliament, was criticized even more severely as presenting a "host of problematic provisions, in particular in so far as it provides for the regulation of the use of languages in all enterprises (companies), institutions, civil institutions and organizations (including private cultural and religious organizations)"²⁰

The issue of official recognition and usage of the minority languages in certain geographic areas should be pointed out. In Lithuania, the amendment to the Law on National Minorities adopted in January 1991 stipulates that minority languages can be used (in addition to the state language) in public administration and allows for bilingual information signs. Estonian legislation also contains a similar provision that, however, was later revoked. Latvian language legislation provides for the unified rules of using languages in all areas, including those inhabited by a predominantly minority population. Usage of minority languages along with the state language in public information is allowed only in specific cases (safety and security information, activities of ethnic cultural associations, international events and taxation).

According to Article 25 (2) of the ICCPR, every citizen shall have the right and the opportunity to vote and to be elected. This right must be implemented without any of the distinctions mentioned in Article 2 of the Covenant, including distinction by language.

Can a State set language requirements for its citizens to stand for parliamentary or municipal elections? In the context of the European framework, some maintain that the fact that elected delegates are required to use a specific language in parliament is a restriction of the right to stand for election. Yet the European Human Rights Commission (ECHR) does not guarantee the right to use the language of a delegate's choice in legislative bodies".²¹ The key question is the very right to stand for election, i.e., to be registered as a candidate.

In Lithuania, there are no special language knowledge conditions for candidates to parliament or municipal government. During the last local elections, a person who had no command of Lithuanian was elected to the Vilnius city council. He used the services of a translator, and took an intensive course of Lithuanian. In Estonia, legislation contains some clauses that may be interpreted as the condition required command of the Estonian language for all elected deputies. A member of the municipality of the Russian-speaking city of Sillamjæ was, on the basis of the court verdict, deprived of his mandate because of insufficient knowledge of Estonian.²² In Latvia, candidates to both the national parliament and municipal councils must present

evidence of proficiency in the state language or they will not be registered by the electoral commission. The State Language Inspectorate is authorized to examine if a person's command of the state language command corresponds to the language attestation certificate. During municipal elections in March 1997, a candidate was removed from the electoral list on the basis of the conclusion of the State Language inspector, despite the fact that she had the required certificate. The decision was disputed in court, yet the court decided it was in compliance with the Latvian legislation. Some human rights activists claim that this legislative clause violates a citizen's right to stand for election and discriminates against minorities who cannot vote for the candidate they prefer.

As mentioned above, the principle of setting language criteria as a precondition for employment in certain professions cannot be considered discriminatory. Estonian, Latvian and Lithuanian language legislation contain such provisions. The detailed lists of professions and level of the language requirements are established by departmental regulations, not by the law itself. Yet, minorities claim that often these demands are excessive.

In January 1998, the Latvian Parliament passed amendments to the labour code that granted the State Language Inspectorate the right to demand dismissal of an employee whose command of the state language, in the inspector's view, was not sufficient. If the employer refuses to fire the employee, the language inspector can demand dismissal through court proceedings. The amendments caused severe criticism by human rights organizations in Latvia and abroad,²³ and president refused to enforce them.

According to the regulations adopted by the Latvian Government in October 1996, a person who has lost his or her job must present a language proficiency certificate in order to be registered as unemployed, even if the former job did not require language proficiency. No unemployment benefits are available to persons who fail to meet this demand. The regulations were evaluated as discriminatory by several experts of OSCE and the Council of Europe and were finally revoked in the spring of 1998.

Gradual "nativization" of the school system is a

matter of primary concern for many minorities. This problem can hardly be unequivocally interpreted in light of human rights norms, for no really binding, relevant instruments are in force so far. The main controversies are connected with understanding of the pertinent provisions, in particular, the 1962 United Nations Economic, Scientific and Cultural Organization (UNESCO) Convention against Discrimination in Education.

Advocates of retaining the multilingual system of education argue that a gradual switch to teaching more subjects in the state language and elimination of secondary education in minority languages, envisaged by both Estonian and Latvian draft laws, will limit minority education, thus violating of the a UNESCO Convention. On the other hand, supporters of the "unification" of the educational system argue that preservation and development of the system of schooling in Russian would maintain separate educational systems or institutions for groups of persons, thus contravening of the same Convention. Minority activists believe that making children study in an unfamiliar language inevitably pre-determines inequality and discrimination. Governmental representatives maintain just the opposite; merely providing basic education in the state language offers minority youth equal opportunities to compete on the

labour market and, thus prevent discrimination.

.....*National Legislation
Directly Linked to Ethnicity*

In legislation of Baltic States, ethnic domination of indigenous groups is provided, as a rule, indirectly, primarily through increasing the role of the state language. However, there are exceptions to this general rule. For example, the citizenship laws of all three States stipulate preferential treatment of persons on the basis of ethnic origin. These laws are problematic in view of the International Convention on the Elimination of All Forms of Racial Discrimination.

Certainly, the mandatory record of ethnicity in a person's identification documents is a serious form of discrimination. In Estonia, neither passports nor other documents contain this entry. In Lithuania, the ethnicity record in passports is optional. Latvia, however, retained the Soviet practice of mandatory ascription of ethnic origin in personal identification. The ethnicity of inhabitants, including newborn babies, is recorded. In cases of mixed marriages, the ethnicity of one parent is ascribed to the child.

In June 1994, a special law on changing one's

name, surname and ethnicity was adopted in Latvia. The law stipulates changes of ethnicity by "blood" only. A person who wants to have the ethnicity record in his/her passport changed to "Latvian" must produce evidence not only that one of his/her parents is/was an ethnic Latvian, but also that he/she has a perfect command of the state language.

In November 1996, the OSCE High Commissioner on National Minorities sent a letter to the Latvian authorities recommending that the ethnicity record be made optional. Latvian minister for foreign affairs pointed to serious difficulties with its practical implementation, including that it would require a considerable number of amendments to Latvian legislation, which could be a lengthy process.²⁴

.....*Political participation and representation*

The principle of non-discrimination implies, among other aspects, to equal participation of minority groups in all areas of social life, including politics. No demand of "ethnic proportionality" may be considered reasonable, yet, state policies no doubt pursue inclusiveness in this respect. As numerous data reveal (both statistics and sociological surveys), minority groups are heavily underrepresented in the new political elites of the Baltic States.²⁵ This is true, in particular, for ethnic composition of elected bodies (parliaments and municipalities and even more so in state bureaucracy and public administration.²⁶ Yet, Russian-speakers seem to dominate newly emerging private businesses in all Baltic States.²⁷

Low representation of Russian-speakers in the state and municipal bureaucracy is predetermined by the stringent citizenship and language requirement discussed above, on one hand, and by differing social characteristics of minority groups (lower political activity and mobilization, etc.), on the other. However, "uneven" participation definitely creates a problem in the view of potential discrimination, for even if a legislator has no intentions to discriminate, the effect of the scope of the legal provisions may be regarded as discriminatory.

Methods and approaches to prevent discrimination

In the previous section, several areas where the threat of discrimination is most serious were considered and several approaches applied to overcome these threats examined. This section analyses these approaches, their efficiency, obstacles to implementation and ways to increase their effectiveness.

.....*Legislation*

As was shown above, in Baltic States, the laws themselves may create preconditions for potential discrimination. Yet, other laws (or even different clauses of the same laws) can serve as a remedy against this threat. Constitutional provisions are especially significant.

The Constitution of the Republic of Lithuania, adopted by referendum of in 1992, contains several relevant clauses: "All individuals are equal before the law, the courts and other State bodies or their representatives. The rights of a person cannot be restricted nor privileges accorded on the grounds of sex, race, nationality, language, origin, social position, religion, beliefs or opinions... Citizens who are members of national minorities have the right to foster their language, culture and customs. Furthermore, constitutional provisions guarantee the right of national minorities to manage autonomously their cultural affairs, education, humanitarian aid and other fields. It is foreseen that the State should support them".

Lithuanian civil law states that contractual arrangements must be settled without taking sex, race or nationality into consideration. This is the case, for example, in the fields of employment and housing. However, the European Commission against Racism and Intolerance states in its report on Lithuania, "It would be desirable that the scope of this prohibition be more clearly defined and the penalties involved more precisely stated."²⁸

The Estonian Constitution of 28 June 1992 also contains an articulate anti-discrimination provisions regarding "nationality, race, color, sex, language, origin, creed, political or other persuasions, financial or so-

cial status". The Constitution contains another clause relevant to the particular circumstances of current-day Estonia: "The rights, liberties and duties of everyone and all persons, as listed in the Constitution, shall be equal for Estonian citizens as well as for citizens of foreign states and stateless persons who are present in Estonia."

Unlike in Lithuania and Estonia, where the new constitutions were adopted, Latvia fully restored its Constitution of 1922. This "old" constitution does not contain clauses related to human rights or discrimination, and an additional chapter devoted to this issues is still under consideration in the Latvian parliament. However, a special constitutional law on "The Rights and Obligations of a Citizen and a Person" was adopted soon after the restoration of independence on 10 December 1991. The Law states: "All persons in Latvia are equal under the law regardless of race, nationality, sex, language, party affiliation, political and religious persuasion, social, material and occupational standing and origin". However, some provisions of the constitutional law are more problematic. For example, the freedom of movement of persons who are not citizens of Latvia is somewhat restricted.

An important clause is included in the law "About the Unrestricted Development and Right to Cultural Autonomy of Latvia's Nationalities and Ethnic Groups", adopted on 19 March 1991: "The Republic of Latvia guarantees to all permanent residents in the Republic, regardless of their nationality, equal rights to work and wages. Any direct or indirect actions to restrict, based on nationality, the opportunities of permanent residents to choose their profession or to choose a trade based on their corresponding skills and qualifications, are prohibited".

In general, the scope of anti-discrimination provisions in the legislation of the Baltic States represents a good basis to overcome discrimination. Mechanisms of implementation of these general provisions is the major problem. Effective application and enforcement is directly related to the need to develop an independent and professional judiciary, as well as a general level of legal "culture" in the country. Latvia and Lithuania, still face serious problems with the judicial reform which must be overcome. The importance of

assistance from international organizations can hardly be overestimated.

.....*The Judiciary*

Thus far, no cases directly connected with alleged discrimination have been tried in the Baltic States. This has resulted from a lack of legal experience in the field, lack of qualified lawyers specializing in anti-discrimination law, difficulties in applying constitutional provisions mentioned in the previous section and common habits of the residents in solving their problems outside of court (including such methods as the use of bribes).

However, several cases closely related to the problem can be mentioned. In January 1998, the Appellate Court in Tallinn, considered a claim for compensation for moral and material injuries. The plaintiff (the Legal Information Centre for Human Rights and its former director) sued a member of Estonian Parliament, who wrote a newspaper article describing activists of the centre as "Russian chauvinists". During the court case, an important discussion about the concept of "chauvinism" and some related notions took place. The court ruled was in favour of the plaintiff and the defendant was obliged to publish a refutation. However, a request for further compensation was declined.

In a recent case in Latvia, the Prosecutor General investigated a publication in the "Nacionala Neatkariba", a mouthpiece of the party "For Fatherland and Freedom". Several Russian cultural associations had claimed that many points made by the article were insulting and, in fact, violations of racial equality. If it reaches court, the case will become the first trial in Latvia of its kind since the restoration of independence.

Constitutional courts have a special role in legislation and law enforcement practices to exclude the threat of discrimination. In Estonia, the National Court (which serves also as the Constitutional Court) had to intervene in a conflict between the president and parliament regarding amendments to the Law on Language. In Latvia, although a constitutional court was established in 1997, no discrimination-related cases have been brought before it. This can be explained by the fact that the procedure for initiating a case is rather complicated: only a group of members of parliament,

the cabinet of ministers, the prosecutor general or the supreme court of the municipality can initiate a proceeding. Thus, a resident or a group of residents does not have such an opportunity.

.....*International organizations*

The role of international organizations, in particular, intergovernmental organizations (IPOs), in the prevention of discrimination in the Baltic States cannot be overestimated. Two particular kinds of the activities can be singled out: political and diplomatic advice and pressure, usually in the form of recommendations (public or confidential); and "formal" recommendations, in particular, accession to international organizations. For example, evaluations of national legislation before a country's accession to the Council of Europe contributed to anti-discrimination provisions. The process of negotiations related to the accession of the Baltic countries to the European Union is currently the major external factor affecting national legislation and, to a lesser extent, practices. Recommendations of the ONCE High Commissioner on National Minorities play a special role in the protection of minorities and prevention of discrimination. The influence of interventions on the part of the Council of the Baltic Sea States Commissioner of Democratic Institutions and Human Rights, including the Rights of Persons Belonging to Minorities, has grown constantly since 1995.

Two problems should be mentioned in connection with this type of international influence, namely, coordination between different international bodies and access to full and correct information. The "division of labor" between IGOs (particularly in Europe) is well established and effective, but efforts between IGOs and international non-governmental organizations (NCOS) seem to be less well coordinated. As to data used for formulating conclusions and recommendations, at times international observers concentrate solely on legislation, while practical implementation of this legislation is not taken into consideration. Further, serious inaccuracies can be found in the documents of international organizations, although inaccuracies are the exception rather than the rule.

Practical assistance organized by international

organizations represents another type of activity. Efforts are aimed at the elimination of the preconditions of discrimination. The National Programme for Latvian Language Training represents the most successful example of this type of activity. Experts from several countries, as well from the United Nations Development Programme (UNDP), the Council of Europe and UNESCO, contributed to this work. In November 1995, the Latvian Cabinet of Ministers approved the programme, whose goal is to design and implement training that will ensure a complete education in one's native language and a reasonably high level of Latvian language skills. For adults, it calls for strengthening the capacity of teachers of adults to provide quality language training for non-Latvian speakers.

.....*Extrajudicial institutions*

Quasi-judicial, ombudsman-type national institutions can play an important role in overcoming discrimination. The establishment of such institutions is at different stages in the Baltic countries. In Latvia one such institution has been working actively since 1995. Following the work of a UNDP mission, a National Programme for the Protection and Promotion of Human Rights in Latvia was approved, establishing the National Human Rights Office. The UN system took an active part in financing the undertaking.²⁹

Difficulties faced when implementing projects of this kind may best be illustrated with the serious problems the Latvian National Human Rights Office experienced in 1997. Problems included financial abuses, disagreements on the focus, areas and methods of activities with international donors and accusations of insufficient impartiality on the part of some NGOs. A lack of commitment of relevant national authorities in the matters related to the office and insufficient cooperation with human rights NGOs are among the causes of the current problems. The role of these ombudsman-type institutions will probably grow along with deepening general acceptance of basic human rights by the society at large. Effective activities of these institutions are based on moral authority, however, rather than on coercive methods of enforcement, and this is feasible only in a sufficiently mature society.

.....*Individual complaints
to international organizations*

All Baltic States, at different stages, ratified both the Optional Protocol to the ICCPR and the European Convention of Human Rights, with most of its protocols. Thus, both UN and European procedures for submission of individual complaints are available to persons under the jurisdiction of Estonia, Latvia and Lithuania, taking advantage of these opportunities will be a powerful tool to eliminate discriminatory practices and to support legislative reform.

No communications under the Optional Protocol to the ICCPR have been registered so far in Estonia or Lithuania, while in Latvia two communications are at the pre-admissibility stage, and one view has been already adopted. Three communications from Latvia have been submitted recently to the European Court of Human Rights, but none from Estonia and Lithuania. Apparently, Latvian human rights NGOs are more active in the field than their Estonian and Lithuanian colleagues. In the not-too-distant future, views and decisions of the UN Human Rights Committee and the European Court of Human Rights will certainly play an important role in overcoming discrimination in the Baltics.

.....*Consultative institutions*

Permanent, open dialogue with vulnerable (primarily minority) groups can serve as an effective tool

for uncovering and preventing discrimination. Institutions have been established in all three Baltic states to set up such a dialogue. In Estonia, the President's Round-Table was established in 1993 because the Russian minority had no representation in parliament. The Round-Table has become a forum where representatives of all minorities have an opportunity monthly to discuss their problems with members of parliament and to work out recommendations for finding solutions to complex situations. In Lithuania, the Council of National Minorities was created to carry out similar functions. In Latvia, the Consultative Nationality Council, attached to the office of the president, was established in 1996. Although an important development, these consultative institutions have not always worked successfully.

.....*Educational methods*

Education represents the most universal and long-term solution to overcoming discrimination. The difficulties faced in this field by Baltic States, as well as by other post-communist countries, are to a great extent caused by a lack of democratic traditions, deeply rooted tolerance or general legal culture connected with the spirit of human rights and dignity.

One new approach is the introduction of a broad system of human rights education, from elementary school to university level.³⁰ However, NGO activities at the grass-roots level are even more important. A considerable number of projects aimed at rais-

ing the general level of awareness about anti-discrimination principles and promoting tolerance and enlightenment in the field are being implemented. It should be pointed out that the Latvian Human Rights Committee, well known thanks to its active and successful consulting and litigation work aimed at protecting minority rights in court, launched two educational television projects financed by the Council of Europe Confidence-Building Measures Programme. However, in many cases NGOs face serious problems with funding. World-wide and European projects and campaigns for combating racism and intolerance are also used inefficiently.

.....**Coalition-building**

Coalition-building is poorly developed in the Baltics. Only a few examples can be mentioned where representatives of different groups and parties united forces to fight discrimination. For example, in February 1996, an open letter to the president of Latvia, signed by 13 intellectuals, was published by the media. The letter, which severely criticized government policies towards minorities and called upon the president to take measures to remedy the situation, triggered a broad public debates. In the spring of 1998, when possible amendments to the Latvian citizenship law granting automatic citizenship to babies born in Latvia after the restoration of independence were being discussed, one more open letter signed by several (not

always cooperating) NGOs was published. The letter called for granting citizenship to all newborn babies. Unfortunately, there are few other examples of effective coalition-building.

.....**Conclusions**

Preventing discrimination is one of the biggest challenges that independent Baltic States face. To a considerable extent, this problem is one more legacy of the communist past, yet, many factors that emerged after independence, such as the strength of ethnocentric trends in state policies, have exacerbated the situation.

Elimination of threads of discrimination can be achieved by developing an effective legal framework, promoting tolerance, curing historical traumas and, most importantly, empowering minorities. Concerted efforts of Governments, NGOs and international organizations are needed to resolve this problem (while Governments are most problematic in this respect). International organization assistance is a factor of pivotal importance. The proper distribution of financial and organizational support between Governments and NGOs should be stressed.

All three Baltic States have declared ethnic integration a priority. Indeed, it is possible to overcome discrimination through tolerance, participation and non-ethnically based solidarity.

¹ Graham Smith. "The Ethnic Democracy Thesis and the Citizenship Question in Estonia and Latvia". Nationalities Papers, 24:2 (1996), pp.199-216

² On recirculation and expulsion processes in formation of the Baltic elites, see Anton Steen. "Cleavage Structures, Elite Configurations and Democracy in Post Communist Countries - the case of the Baltic States". In: A.Steen (ed.): Ethnicity and Politics in Estonia, Latvia and Lithuania. University of Oslo, Research Report 02/97, pp. 1 -22.

³ Panayote Elias Dimitras. "The Minority Rights Paradox". WarReport, 1998, No.58, pp.64-66

⁴ Vello Pettai. Contemporary International Influences on Post-Soviet Nationalism: The Cases of Estonia and Latvia. American Association for the Advancement of Slavic Studies 25th National Convention, 1993, November, Honolulu.

⁵ For detailed overview of differing expert evaluations of Estonia's and Latvia's citizenship legislation see: Hanne-Margaret Birckenbach. Preventive Diplomacy through Fact-Finding: How International Organizations Review the Conflict over Citizenship in Estonia and Latvia. Hamburg: Lit Verlag, 1997, 424 p.

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⁷ Bill Bowring, Report of a mission to the Republic of Latvia on behalf of the Federation Internationale des Droits de l'Homme, June & July 1993.

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