

## (B) Communal Recognition and Protection

### Option 1: Simple recognition

The express constitutional recognition of the existence of two or more communities in a single state may have some symbolic value in itself. For example, in Canada an attempt was made in 1987 in the Meech Lake Accord to limit separatist tendencies among francophones by formally recognising their existence and the special status of Quebec in the following terms:

The Constitution of Canada shall be interpreted in a manner consistent with

- (a) the recognition that the existence of French-speaking Canadians, centred in Quebec but also present elsewhere in Canada, and English-speaking Canadians, concentrated outside Quebec but also present in Quebec, constitutes a fundamental characteristic of Canada; and
- (b) the recognition that Quebec constitutes within Canada a distinct society.

But this approach was ultimately rejected in a series of referendums, perhaps because it was not clear precisely what the effect of the provisions would be.

### Option 2: Recognition along with limited communal autonomy

Recognition of this kind may be perceived as more worthwhile if it is tied to some more practical protections, as in Belgium, where the formal recognition of the existence of two major communities is backed up by detailed provisions for communal autonomy and blocking powers on certain matters. (see separate account)

### Option 3: A duty on public bodies to give equal treatment/esteem

An alternative approach is to link express recognition of the existence of two or more communities with a positive duty on all public authorities to give equal treatment and esteem to each, as proposed by SACHR in 1990:

It would be desirable to include in a new Northern Ireland Constitution Act a general statement recognising the existence of the two main sections of the community in Northern Ireland and imposing a duty on Government and other public authorities to ensure that their functions are carried out in such a way as to ensure that members of both main sections of the community are granted equality of treatment and esteem. (Cm. 1107, para. 8.41)