

## Individual and community rights

The International Covenant on Civil and Political Rights (1966) states (art. 27): In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language. However, the notion of minority is not defined and the right defended is about the person who is a member of the minority and not about the minority. The same applies to the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992), with the exception of art. 1, § 1: States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity. Similarly, article 1 of the Council of Europe's Framework Convention for the Protection of National Minorities (1995) states: The protection of national minorities and of the rights and freedoms of persons belonging to those minorities forms an integral part of the international protection of human rights, and as such falls within the scope of international co-operation. The Declaration on the Rights of Indigenous Peoples (2007) explicitly guarantees Indigenous Peoples - as a collective but also for individual members - a right to the enjoyment of all human rights and fundamental freedoms. A community, namely the indigenous people, is explicitly made a subject of law (art. 1): Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law.

How can we explain this evolution towards the recognition of community rights and its slowness? On the one hand, the need to protect the rights of specific categories has grown over time, as shown by the multiplication of special rapporteurs and independent experts dedicated to them. On the other hand, the lack of consensus on a clear definition of minorities is an obstacle to the recognition of their rights. The report presented to the UN General Assembly in 2019 by the Special Rapporteur on minority issues analyses at length the political interests of States, which have not yet defined the notion of minority. He proposes the following definition: an ethnic, religious or linguistic minority is any group of persons which constitutes less than half of the population in the entire territory of a State and whose members share the same characteristics of culture, religion or language, or several of these elements together. A person may freely belong to an ethnic, religious or linguistic minority without any condition of citizenship, residence, official recognition or any other status.

In addition to ethnic, religious or linguistic minorities and indigenous peoples, various categories are subject to special protection of their rights. The list of special rapporteurs and independent experts dedicated to them has grown over time: people with albinism, people with disabilities, people affected by leprosy, people of African descent, children, women and girls, the elderly, migrants, internally displaced persons, people living in extreme poverty, people discriminated against because of their sexual orientation and gender identity... For some people in these categories it may be sufficient that they are guaranteed individual protection of their rights, although it may be more effective for them to form a community of interest for the promotion and defense of these rights. In other cases, it seems practically indispensable that the category

suffering from discrimination be protected collectively, whatever its size and in a transnational way.

The mechanisms at the service of human rights are exercised within the framework of a multilateralism that is directly concerned only with the reality of States and individuals. The recognition of the rights of communities constitutes today a challenge to ensure the effective protection of the people who are part of them.

1. How can the community be conceptually founded as a subject of law? Does it depend on a minority status and a state of discrimination?
2. Can a community assert its rights without being organized in an associative manner?
3. Is the recognition of rights to communities linked to the political notion of communitarianism?
4. How does the Church deal with the defense and promotion of its rights as a community and the rights of communities within and outside the Church? Does this affect its credibility on human rights issues?
5. Does the Dominican Order have specific strengths in defending and promoting the rights of communities?